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

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**FORM 10-K**

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(Mark One)

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

For the fiscal year ended December 31, 2020

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-00395



**NCR CORPORATION**  
(Exact name of registrant as specified in its charter)

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**Maryland**  
(State or other jurisdiction of  
incorporation or organization)

**31-0387920**  
(I.R.S. Employer  
Identification No.)

**864 Spring Street NW**  
**Atlanta, GA 30308**  
(Address of principal executive offices) (Zip Code)

**Registrant's telephone number, including area code: (937) 445-1936**

**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 Stock, par value \$0.01 per share	NCR	New York Stock Exchange

**Securities registered pursuant to Section 12(g) of the Act: None**

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Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes  No

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2020, was approximately \$2.3 billion.

As of February 12, 2021, there were approximately 130.1 million shares of common stock issued and outstanding.

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**DOCUMENTS INCORPORATED BY REFERENCE**

Part III: Portions of the Registrant's Definitive Proxy Statement for its Annual Meeting of Stockholders to be filed pursuant to Regulation 14A within 120 days after the Registrant's fiscal year end of December 31, 2020 are incorporated by reference into Part III of this Report.

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This Report contains trademarks, service marks and registered marks of NCR Corporation and its subsidiaries, and of other companies, as indicated. Unless otherwise indicated, the terms "NCR," the "Company," "we," "us," and "our" refer to NCR Corporation and its subsidiaries.

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## FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the “Act”). Forward-looking statements use words such as “expect,” “anticipate,” “outlook,” “intend,” “plan,” “believe,” “will,” “should,” “would,” “potential,” “proposed,” “objective,” “could,” “may,” and words of similar meaning, as well as other words or expressions referencing future events, conditions or circumstances. We intend these forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Act. Statements that describe or relate to NCR’s plans, goals, intentions, strategies, or financial outlook, and statements that do not relate to historical or current fact, are examples of forward-looking statements. The forward-looking statements in this Annual Report include statements regarding NCR’s plans to manage its business through the coronavirus (“COVID-19”) pandemic and the health and safety of our customers and employees; the expected impact of the COVID-19 pandemic on NCR’s Banking, Retail and Hospitality segments including the impact on our customers’ businesses and their ability to pay; expectations regarding our operating goals and actions to manage these goals; expectations regarding cost and non-price revenue synergies; expectations regarding our cash flow generation, cash reserve, liquidity, financial flexibility and impact of the COVID-19 pandemic on our employee base; expectations regarding our ability to capitalize on market opportunities; expectations regarding leveraging the debit network to monetize payment transactions; expectations regarding accretion; NCR’s revenue and financial growth expectations; expectations regarding our continued focus on our long-term fundamentals, including, but, not limited to, execution of NCR’s recurring revenue strategy and accelerated growth including its transformation to an as-a-Service company and its 80/60/20 strategy; the potential benefits of the proposed Cardtronics plc transaction, including our ability to successfully integrate Cardtronics plc and realize any anticipated efficiencies and synergies from the transaction; and NCR’s expected areas of focus to drive growth and create long-term stockholder value. Forward-looking statements are based on our current beliefs, expectations and assumptions, which may not prove to be accurate, and involve a number of known and unknown risks and uncertainties, many of which are out of our control. Forward-looking statements are not guarantees of future performance, and there are a number of important factors that could cause actual outcomes and results to differ materially from the results contemplated by such forward-looking statements, including those factors listed in Item 1A “Risk Factors” and Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” of this Annual Report on Form 10-K, including factors relating to: (i) operational and business risks including the impact of COVID-19 pandemic on our business, financial condition and results of operations; domestic and global economic and credit conditions including, in particular, political, consumer, and unemployment conditions, the imposition or threat of protectionist trade policies or import or export tariffs, global and regional market conditions and spending trends, new tax legislation across multiple jurisdictions, modified or new global or regional trade agreements, execution of the United Kingdom’s exit from the European Union, uncertainty over further potential changes in Eurozone participation, fluctuations in oil and commodity prices, and our customer responses to the same; the transformation of our business model to an as-a-service company with focus on, among other items, increased software and services revenue, and recurring revenue; our ability grow software and services and expanding our customer base; our ability to successfully develop and introduce new solutions in the competitive, rapidly changing environment in which we do business; defects, errors, installation difficulties or development delays in our products; disruptions in our data center hosting facilities; our ability to compete effectively within the technology industry; reliance on third party suppliers; our multinational operations, including in new and emerging markets; our ability to successfully integrate acquisitions or effectively manage alliance activities, including but not limited to, the proposed transaction with Cardtronics plc; continuous improvement, customer experience, restructuring and cost reduction initiatives; and our ability to retain key employees, or attract quality new and replacement employees; (ii) financing and liquidity risks including: our level of indebtedness; the terms of the documents governing our indebtedness including financial and other covenants; the incurrence of substantially more debt, including secured debt, and similar liabilities, which would increase the risks described in our risk factors relating to indebtedness and repurchase obligations; sufficiency of our cash flows including to service our indebtedness; interest rate risk, which could cause our debt service obligations to increase significantly; our ability to raise the funds necessary to finance a required repurchase of our senior unsecured notes or our Series A Convertible Preferred Stock; a lowering or withdrawal of the ratings assigned to our debt securities by rating agencies; and our pension liabilities; (iii) data protection, cybersecurity and privacy risks; (iv) intellectual property risks including protection, development and our ability to manage third party claims regarding patents and other intellectual property rights; (v) legal and regulatory risks including unanticipated changes to our tax rates and additional income tax liabilities; environmental exposures from our historical and ongoing manufacturing activities; and uncertainties with regard to regulations, lawsuits, claims, and other matters across various jurisdictions; and (vi) other risks including the impact of the terms of our Series A Convertible Preferred Stock relating to voting power, share dilution and market price of our common stock, as well as rights, preferences and privileges that are not held by, and are preferential to, the rights of our common stockholders; actions or proposals from stockholders that do not align with our business strategies or the interests of our other stockholders; and potential write-down of the value of certain significant assets. Any forward-looking statement speaks only as of the date on which it is made. We do not undertake any obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

## PART I

### Item 1. BUSINESS

#### General

##### *General Development of the Business*

NCR was originally incorporated in 1884 and has developed to become a leading software- and services-led enterprise provider in the financial, retail, hospitality and telecommunications and technology industries. The solutions we provide help our customers, businesses of all sizes, run self-directed banking, stores and restaurants end-to-end and wall-to-wall, by making simple possible through our NCR-as-a-Service solutions that bring together all of the capabilities and competencies of NCR. These solutions enable us to be the technology-based service provider of choice to our customers. Our portfolio includes digital first offerings for banking, retailers and restaurants, as well as payments processing, multi-vendor connected device services, automated teller machines (ATMs), point of sale (POS) terminals and self-service technologies. We also resell third-party networking products and provide related service offerings in the telecommunications and technology sectors. Our business has evolved from providing hardware and services, to providing software and services within solutions that allow us to increasingly become strategic partners to our customers, helping them build their business strategies and deliver targeted business outcomes.

NCR Corporation's common stock is listed on the New York Stock Exchange and trades under the symbol "NCR." NCR is a global company that is headquartered in Atlanta, Georgia.

##### *Operating Segments*

We categorize our operations into the following segments: Banking, Retail, Hospitality and Telecommunications and Technology (T&T).

The information required by Item 1 with respect to our reportable segments and financial information regarding our geographic areas and those reportable segments can be found in Item 7 of Part II of this Report under "Revenue and Operating Income by Segment" as well as in Item 8 of Part II of this Report as part of Note 4, "Segment Information and Concentrations" of the Notes to Consolidated Financial Statements and is incorporated herein by reference.

#### Our Strategy

In order to provide long-term value to all of our stakeholders, we set complementary business goals and financial strategies. Our business goal is to be a software and services-led company, and to be the leading technology provider of choice that runs the store, runs the restaurant and runs self-service banking channels around the world through our NCR-as-a-Service solutions that help banks, stores and restaurants run better, so they have more time to create customer experiences that drive lasting success. Our financial strategy is to transition our revenue mix so that 80 percent of our total revenue is comprised of software and services revenue, 60 percent of our total revenue is comprised of recurring revenue, and our adjusted EBITDA margin rate increases to 20 percent.

Execution of our goals and strategy is driven by the following key pillars:

- *Focus on our customers.* We encourage our employees to treat every customer as if they are our only customer. If we provide better service and better quality products than our competitors, our customers will likely buy more from NCR. We are increasingly becoming active, strategic advisors to our clients, helping them retool and reinvent their business in response to the COVID-19 pandemic. We believe this focus has or will lead to increased access to higher level customer contacts, earlier entrance into the sales cycles, and additional opportunities for upselling and cross-selling.
- *Take care of our employees.* Our 36,000 employees are the direct face of NCR to our clients. Since 2018, NCR has actively worked to increase employee engagement and satisfaction.
- *Bring high-quality, innovative products to market.* Since 2018, NCR has focused our research and development investments on elevating product quality and bringing new solutions to market in our key focus areas of digital banking, our next-generation retail architecture, including our NCR Emerald™ cloud-based point of sale product, our Aloha™ Essentials solution bundle, payments and ATM-as-a-Service. Additionally, we have placed an increasing priority on improvements in how we go to market, deliver our solutions and package our solutions as all-in-one solution bundles, making it easier for our customers to buy and for our teams to sell.

- *Leverage our brand.* NCR has one of the best-known and respected brands in the industries we serve. We believe this to be a strong competitive differentiation with significant equity in our worldwide markets.

## **Products and Services**

We are an enterprise provider selling a portfolio of digital first software, services, payments and hardware. Our offerings fall into the following categories:

### *Banking*

We offer solutions to customers in the financial services industry that power their digital transformation through software, services and hardware to deliver differentiated experiences for their customers and improve efficiency for the financial institution. Our managed services and ATM-as-a-Service help banks run their end-to-end ATM channel, positioning NCR as a strategic partner. We augment these solutions by offering a full line of software, services and hardware including interactive teller machines (ITM), and recycling, multi-function and cash dispense ATMs. NCR's digital banking solutions enable anytime-anywhere convenience for a financial institution's consumer and business customers. We also help institutions implement their digital first platform strategy by providing solutions for banking channel services, transaction processing, imaging, and branch services.

### *Retail*

We offer software-defined solutions to customers in the retail industry, leading with digital to connect retail operations end to end to integrate all aspects of a customer's operations in indoor and outdoor settings from POS, to payments, inventory management, fraud and loss prevention applications, loyalty and consumer engagement. These solutions are designed to improve operational efficiency, selling productivity, customer satisfaction and purchasing decisions; provide secure checkout processes and payment systems; and increase service levels. These solutions include retail-oriented technologies such as comprehensive API-point of sale retail software platforms and applications, hardware terminals, self-service kiosks including self-checkout (SCO), payment processing solutions, and bar-code scanners.

### *Hospitality*

We offer technology solutions to customers in the hospitality industry, including table-service, quick-service and fast casual restaurants of all sizes, that are designed to improve operational efficiency, increase customer satisfaction, streamline order and transaction processing and reduce operating costs. Our portfolio includes cloud-based software applications for point-of-sale, back office, payment processing, kitchen production, restaurant management and consumer engagement. We also provide hospitality-oriented hardware products such as POS terminals, order and payment kiosks, bar code scanners, printers and peripherals. And finally, we help reduce the complexities of running the restaurant through our services capabilities including strategic advisory, technology deployment and implementation, hardware and software maintenance and managed services.

### *Telecommunications & Technology*

We offer maintenance, managed and professional services using solutions such as remote management and monitoring services, which are designed to improve operational efficiency, network availability and end-user experience, to customers in the telecommunications and technology industry. We also provide such services to end users on behalf of select manufacturers leveraging our global service capability, and resell third party networking products to customers in a variety of industries.

## **Target Markets and Distribution Channels**

NCR provides solutions to customers of varying sizes in the financial, retail, hospitality and T&T industries.

We provide the banking technology that helps customers run self-directed banking, which primarily centers around our digital banking and ATM businesses, including software and services. Our solutions also serve the retail markets through convenience banking products for retailers designed to complement their core businesses. Our financial solutions customers are located throughout the world in both developed and emerging markets. We have historically sold most of our Banking segment solutions through a direct sales channel, although a portion of revenue is derived through distributors and value-added resellers.

We provide solutions to the retail and hospitality industries that help run the store and run the restaurant including, but not limited to, point-of-sale software and hardware, self-service software and hardware, loyalty software, supply chain and payment solutions. We also provide store virtualization, Internet of Things (IoT), and micro-services platform solutions to modernize store and restaurant IT infrastructure. Our Retail segment customers include food, drug and mass merchandisers, which includes grocery stores, drug stores, and big box retailers, as well as department and specialty retail stores, convenience and fuel retailers and small and medium size specialty retailers. Our Hospitality segment customers include quick service restaurants, table service restaurants,

small and medium size restaurants as well as travel and entertainment venues. POS and self-service kiosk solutions are sold through a direct sales force and through relationships with value-added resellers, distributors, dealers and other indirect sales channels.

We provide service and support for our products and solutions through services contracts with our customers. We have also established managed services contracts with key customers and continue to pursue additional managed services relationships. Longer term managed services arrangements can help improve the efficiency and performance of a customer's business, and also increase the strategic and financial importance of its relationship with NCR. We also service competing technologies—for example, ToshibaTec retail technologies and Diebold Nixdorf ATMs. The primary sales channel for our services is our direct sales teams, which exist across all geographies where we operate around the world. Our services professionals provide these services directly to end customers.

## **Competition**

We face a diverse group of competitors in the financial, retail and hospitality and other industries, including the telecommunications and technology industry, in which we sell our digital first portfolio of software, services and hardware. The primary competitive factors can vary by geographic area where we operate around the world, but typically include: value and quality of the solutions or products; total cost of ownership; industry knowledge of the vendor; the vendor's ability to provide and support a total end-to-end solution; the vendor's ability to integrate new and existing systems; fit of the vendor's strategic vision with the customer's strategic direction; and quality of the vendor's consulting, deployment and support services.

In the financial industry, our Banking segment faces a variety of competitors offering financial services and software including, among others, Fidelity National Information Services Inc., Fiserv, Inc., Q2 Holdings, Inc., Temenos AG, Infosys Ltd., Alkami Technology, Inc. and ACI Worldwide, Inc. In addition, we face competition from ATM manufacturers including Diebold Nixdorf, Inc., and Hyosung TNS Inc., and ATM network operators including Euronet Worldwide, Inc., as well as regional firms across all geographies where we operate around the world.

In the retail and hospitality industries, our Retail and Hospitality segments face a variety of competitors across all geographies where we operate around the world. Our competitors vary by market segment, product, service offering and geographic area, and include Toshiba Tec Corporation, Flooid, Oracle Corporation, GK Software SE, PAR Technology Corporation, Aptos, Inc., Lightspeed, Diebold Nixdorf, Inc., Fujitsu Limited, SAP and HP Inc., among others. In addition, we face new competitors including Toast, Inc., Revel Systems, Inc., Square, Inc., and Upserve, Inc., among others.

The primary services competitors are the companies identified above, as well as other regional and local independent services firms across all geographies where we operate around the world. We also face services competition from global enterprise technology companies including IBM Corporation, and CompuCom (owned by Office Depot) among others, as these firms continue to focus on services as a core business strategy.

## **Research and Development**

We remain focused on designing and developing solutions that anticipate our customers' changing technological needs as well as consumer preferences. Our expenses for research and development were \$234 million in 2020, \$259 million in 2019, and \$252 million in 2018. We anticipate that we will continue to have significant research and development expenditures in the future in order to provide a continuing flow of innovative, high-quality products and services and to help maintain and enhance our competitive position. Information regarding the accounting and costs included in research and development activities is included in Note 1, "Basis of Presentation and Significant Accounting Policies" of the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report under "Research and Development Costs," and is incorporated herein by reference.

## **Patents and Trademarks**

NCR seeks patent protection for its innovations, including improvements, associated with its software, services, hardware, solutions, creations and developments, where such protection is likely to provide value, especially strategic value, to NCR. NCR owns approximately 1,250 patents in the U.S. and numerous other patents in foreign countries. The foreign patents are generally counterparts of NCR's U.S. patents. Many of the patents owned by NCR are licensed to others, and NCR is licensed under certain patents owned by others. As appropriate, NCR looks to monetize its patents to drive additional value from its patent portfolio. NCR also has numerous patent applications pending in the U.S. and in foreign countries. NCR's portfolio of patents and patent applications is of significant value to NCR.

NCR has registered certain trademarks, including service marks, in the U.S. and in foreign countries. NCR considers the “NCR” and NCR logo marks, as well as its other trademarks and service marks, to have significant value to NCR. Loss of NCR’s right to use the NCR trademark could be material. However, the NCR trademark has been used and owned by NCR for at least 100 years, and NCR expects to maintain its rights in and to the NCR trademark for years to come.

### **Seasonality**

Our sales have been historically seasonal, with lower revenue in the first quarter and higher revenue in the fourth quarter of each year. Such seasonality also causes our working capital cash flow requirements to vary from quarter to quarter depending on variability in the volume, timing and mix of sales. In addition, revenue in the third month of each quarter is typically higher than in the first and second months. However, with the financial strategy to transition our revenue mix to comprise a higher mix of software and services and recurring revenue, our sales are expected to become more linear over time.

### **Manufacturing and Raw Materials**

In most cases, there are a number of vendors providing the services and producing the parts and components that we utilize. However, there are some services and components that are purchased from single sources due to price, quality, technology or other reasons. For example, we depend on computer chips and microprocessors from Intel and operating systems from Microsoft. Certain parts and components used in the manufacturing of our ATMs and the delivery of many of our retail solutions are also supplied by single sources. In addition, there are a number of key suppliers for our businesses who provide us with critical products for our solutions.

As of December 31, 2020, NCR leverages a network of internal and third party partner facilities across the globe to manufacture its products:

- ATMs are manufactured in NCR facilities located in Manaus, Brazil; Budapest, Hungary; and Chennai, India and partner facilities located in Chihuahua, Mexico.
- SCO solutions are manufactured in NCR facilities located in Budapest, Hungary; Chennai, India and partner facilities located in Chihuahua, Mexico and Xiamen, China.
- Kiosk solutions are manufactured in NCR facilities located in Budapest, Hungary; Manaus, Brazil; and Chennai, India and partner facilities in Buford, Georgia, USA.
- POS/Display terminals are manufactured in NCR facilities located in Budapest, Hungary and partner facilities located in Guadalajara, Mexico and Xiamen, China.

Additionally, NCR outsources the manufacturing of certain printers, bar code scanners and various other retail peripherals such as keyboards and cash drawers.

Further information regarding the potential impact of these relationships on our business operations, and regarding sources and availability of raw materials, is also included in Item 1A of this Report under the caption “Reliance on Third Parties,” and is incorporated herein by reference.

### **Product Backlog**

Backlog includes orders confirmed for products scheduled to be shipped as well as certain professional and transaction services to be provided. Although we believe that the orders included in the backlog are firm, some orders may be canceled by the customer without penalty. Even when penalties for cancellation are provided for in a customer contract, we may elect to permit cancellation of orders without penalty where management believes it is in our best interests to do so. Further, we have a significant portion of revenue derived from service-based business, which backlog information has not historically been measured. Therefore, we do not believe that our backlog, as of any particular date, is necessarily indicative of revenue for any future period. However, backlog is included as a component of our remaining performance obligation to the extent we determine that the orders are non-cancelable. Refer to Note 1, “Basis of Presentation and Significant Accounting Policies” of the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report for additional information on remaining performance obligations.

### **Risk Management**

In 2020, NCR’s Board of Directors created a new committee of the Board, the Risk Committee. The Committee assists NCR’s Board of Directors with its oversight of executive management’s responsibilities to design, implement and maintain an effective enterprise risk management (ERM) framework for the Company’s overall operational, information security, strategic, reputational, technology, environmental, social and governance (ESG), and other risks. The Committee also assists the Board of Directors with



its oversight responsibilities for matters relating to diversity and inclusion, health, environment, safety, sustainability, and the security of personnel and physical assets. Also in 2020, NCR established the Office of Risk Management and appointed a Chief Risk Officer to assist NCR and the Risk Committee in fulfilling its objectives relating to ERM, ESG, third party risk management (TPRM) and business continuity planning (BCP). The Company's Chief Risk Officer is responsible for developing and managing formal ERM, ESG, TPRM and BCP programs designed to identify, assess and respond to material and emerging risks and opportunities that may impact the achievement of the Company's strategic objectives. NCR has established an Executive Risk Committee that will meet routinely to monitor material risks, opportunities and NCR's response plans thereto.

## ESG

At NCR, we believe in creating positive change that supports an innovative future – but even more so, we believe in creating that future in a responsible way. Through our ESG strategy, we are committed to addressing key areas that our employees, customers, stockholders, suppliers, and communities care about most. In 2020, NCR established the key ESG Priorities detailed below to drive our ESG strategy.

*ESG Oversight.* NCR's Board of Directors has direct oversight of ESG activities through its Risk Committee. The Risk Committee assists the Board in managing ESG Priorities. The Risk Committee and other committees of the Board oversee components of ESG, including, business ethics and integrity, data protection and security, diversity, equity and inclusion (DE&I), environmental management, our people, product innovation and management, and supplier responsibility. Further, our Chief Risk Officer provides senior-level ESG ownership of and execution on our ESG Priorities, and reports on those activities to the Board's Risk Committee.

*Business Ethics and Integrity.* Our Code of Conduct sets forth standards designed to uphold our values and foster integrity in our relationships with one another and our valued stakeholders. Our Code of Conduct is available at <https://www.ncr.com/company/corporate-governance/code-of-conduct>.

All our employees are required to complete Code of Conduct training during the onboarding period. All employees are required to complete annual refresher Code of Conduct training. The Code of Conduct training is revised annually, taking into account the prior year's compliance matters and the Company's compliance risks.

Our Ethics and Compliance Program is responsible for managing the company's adherence to the Code of Conduct. Further, our Chief Ethics and Compliance Officer oversees ethical reporting and investigations pertaining to fraud, conflicts of interest, violations of laws, and other similar matters, and reports on those activities to one or more Committees of the Board of Directors.

*Data Protection and Security.* At NCR, we are proud of our data protection, cybersecurity, and privacy programs. These initiatives receive oversight from the Board's Risk Committee, as well as several members of our executive leadership team including the Chief Operations Officer, General Counsel, Chief Information Officer, and Chief Technology Officer. NCR's Chief Information Security Officer and Chief Privacy Officer are responsible for management of these programs. Additional support is provided by our Chief Ethics & Compliance Officer. Under the direction of NCR's Chief Information Security Officer, the Global Information Security organization is responsible for implementing and maintaining an information security program with the goal to protect information technology resources and protect the confidentiality and integrity of data gathered on our people, partners, customers, and business assets. Also, we employ various information technology and protection methods designed to promote data security including firewalls, intrusion prevention systems, denial of service detection, anomaly based detection, anti-virus/anti-malware, endpoint encryption and detection and response software, Security Information and Event Management system, identity management technology, security analytics, multi-factor authentication and encryption. To further our commitment to data privacy and cybersecurity: NCR maintains the ISO 27001 certification for certain NCR locations throughout the United States, Europe, and India; third party audits for PCI-DSS, PA-DSS and SSAE-18 SOC2 are conducted for certain service offerings; NCR maintains a robust information security awareness and training program pursuant to which employees are required to complete training within 30 days of hire, as well as an annual refresher course, and NCR performs regular testing to help ensure employees can identify email "phishing" attacks; NCR's corporate insurance policies include certain information security risk policies that cover network security, privacy and cyber events; and we maintain the NCR Privacy Policy that can be found at <https://www.ncr.com/privacy>.

*Diversity, Equity and Inclusion.* NCR believes in the power and value of diversity and strives to build a globally inclusive workplace where all people are treated fairly. The Board of Directors and its Risk Committee have direct oversight of our diversity, equity and inclusion activities, including those described under the caption "Human Capital Resources" in Item 1 of this Report.

*Environmental Management.* We are committed to managing our environmental footprint and protecting the global communities in which we operate. We strive to minimize our operations and products' environmental impact while also delivering innovative technologies and solutions designed to support businesses and consumers in their efforts to operate responsibly. We also recognize the importance of minimizing our environmental footprint through energy and greenhouse gas (GHG) management. That is why we report our Scope 1 and Scope 2 emissions from our global facilities and service operations through the Carbon Disclosure Project

(CDP). We complete the annual CDP climate change questionnaire and evaluate our environmental management progress annually to better understand our areas of opportunity to make a true impact.

Our commitment to environmental management extends into our products and operational footprint. Our Brazil, Hungary, and India facilities maintain the ISO 14001 certification. The NCR Global Headquarters in Midtown Atlanta has been awarded two Leadership in Energy and Environmental Design (LEED) Platinum certifications: Building Design and Construction: Core & Shell and Interior Design; and Construction: Commercial Interiors.

*Our People.* At NCR, we believe that investment in our employees has a positive impact on our employees and our customers. We put that into action with several employee development and engagement programs, including those described under the caption “Human Capital Resources” in Item 1 of this Report.

*Product Innovation and Management.* Delivering solutions and services that provide value to our customers in an environmentally responsible way is critical to NCR’s ongoing success. As such, we strive to develop and adapt, and recycle our products in a responsible way. One example of how we are already doing this is that certain of our applications, such as Intelligent Deposit and Self-Service Diagnostic Gateway (SSDG), enable our SelfServ ATM customers to better handle the increasing volume – cutting down on costs, maintenance, fuel and materials associated with them.

*Supplier Responsibility.* We believe in creating positive change responsibly, and our supplier partners play a critical role in bringing that vision to life. We not only expect high quality products and services from our suppliers, we also expect them to conduct their businesses consistent with our Supplier Code of Conduct. Our Supplier Code of Conduct, available at <https://www.ncr.com/company/suppliers/manuals-forms-and-templates>, sets forth our expectation that our suppliers will meet ethical standards consistent with NCR’s Code of Conduct and policies. Additionally we take a risk-based approach to supply chain due diligence. We engage with the majority of our largest suppliers on a quarterly basis to identify potential risk exposure. As part of our supplier partner onboarding process, supplier partners are required to certify compliance with International Electrotechnical Commission 62474 standards. NCR requires its supplier partners to maintain compliance with the Restriction of Hazardous Substances (RoHS) Directive, Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation, and other applicable regulations.

## **Human Capital Resources**

*General.* NCR views taking care of our people as a critical part of our strategy. We strive to enable a culture and employment brand that attracts, develops and retains top talent. Our talent focus areas in 2020 were aligned to three basic areas:

- building a ONE NCR culture that is focused on our customers, employees and stockholders;
- preparing our next generation of leaders through extensive training, coaching, mentoring and succession planning supported through our NCR Leadership Institute; and
- hiring the next generation of NCR innovators through our university hiring and partnership programs that help us sustain and strengthen our efforts to be the home of a diverse workforce.

On December 31, 2020, NCR had approximately 36,000 employees and contractors worldwide. Given the multinational nature of our business, we monitor our global employment footprint. As of December 31, 2020, our employees by geographic region included approximately: 25% in the Asia Pacific and Japan region; 34% in the Europe, Middle East and Africa region; 12% in the Americas, excluding the United States; and 29% in the United States.

*Diversity, Equity and Inclusion (DE&I).* NCR believes in the power and value of diversity and strives to build a globally inclusive workplace where all people are treated fairly. The Board of Directors and its Risk Committee have direct oversight of DE&I activities. In 2020, we appointed a DE&I leader to oversee NCR’s DE&I programs and goals. Our key initiatives in 2020 included, amongst others:

- driving workforce diversity guidance programs, which include a quarterly DE&I learning and speaker series;
- activating a supplier diversity program that invests in small businesses, as well as minority, women and veteran-owned business enterprises;
- creating the Global Inclusion Council (GIC), under the executive sponsorship of our President and Chief Executive Officer, and our Senior Vice President and Chief Human Resources Officer, with the mission to inspire action that attracts top talent, creates an inclusive work environment that values the diversity of life experiences and perspectives, and encourages innovation in pursuit of NCR’s mission; and
- sponsoring various Business Resource Groups (BRGs), which are voluntary, employee-led groups that foster a diverse, equitable, and inclusive workplace aligned with NCR’s mission, values, goals, business practices and

objectives, including NCR's Black Professionals Forum, Women in NCR, and United (LGBTQIA+). We look to support additional BRGs where it will help support our employees.

*Employee Engagement, Learning and Development.* To further the objectives described above, we regularly seek our employees' feedback on employee experiences so we can align our objectives with employees' experiences, building on what we do well and designing programs to improve where needed. We also invest in training and development for our employees, with a focus on safety and security, code of conduct, civil treatment in the workplace, and unconscious bias, among other topics. Further, we sponsor various mentorship programs organized by our BRGs or within our business units or infrastructure groups.

## **Government Regulations**

NCR is subject to a variety of evolving government laws and regulations, including environmental laws and regulations, in the various jurisdictions in which our offerings are used, including, for example, privacy and data protection laws, regulations and directives, and anti-corruption laws such as the U.S. Foreign Corrupt Practices Act and U.K. Bribery Act. In addition, though not material to our business taken as a whole, certain parts of NCR's operating segments are subject to industry-specific laws and regulations. For example, in our Banking segment, our digital banking business is subject to examination by the Federal Financial Institutions Examination Counsel (FFIEC), while portions of our Payments business are contractually obligated to comply with certain anti-money laundering laws and regulations, such as the Bank Secrecy Act.

Although NCR does not currently expect that compliance with government laws and regulations, including environmental regulations, will have a material effect upon the capital expenditures, cash flow, financial condition, earnings and competitive position of NCR, its segments or its subsidiaries, it is possible that such compliance could have a material adverse impact on our capital expenditures, cash flow, financial condition, earnings or competitive position, including, but, not limited to, as NCR's Banking or Payments-related businesses grow or change as NCR continues to implement its business strategy. Further, while NCR does not currently expect to incur material capital expenditures related to compliance with such laws and regulations, and while we believe the amounts provided in our Consolidated Financial Statements are adequate in light of the probable and estimable liabilities in this area, there can be no assurances that environmental matters will not lead to a material adverse impact on our capital expenditures, earnings or competitive position. A detailed discussion of the current estimated impacts of compliance issues relating to environmental regulations, particularly the Fox River, Kalamazoo River and Ebina matters, is reported in Item 8 of Part II of this Report as part of Note 9, "Commitments and Contingencies" of the Notes to Consolidated Financial Statements and is incorporated herein by reference. Further information regarding the potential impact of compliance with governmental laws and regulations is also included in Item 1A of this Report and is incorporated herein by reference.

**Information about our Executive Officers**

The Executive Officers of NCR (as of February 26, 2021) are as follows:

<b>Name</b>	<b>Age</b>	<b>Position and Offices Held</b>
Frank R. Martire	73	Executive Chairman
Michael D. Hayford	61	President and Chief Executive Officer
Owen J. Sullivan	63	Chief Operating Officer
Timothy C. Oliver	52	Executive Vice President and Chief Financial Officer
James M. Bedore	61	Executive Vice President, General Counsel and Secretary
Debra Bronder	63	Senior Vice President and Chief Human Resources Officer
Adrian Button	48	Executive Vice President, Product and Service Operations
Daniel W. Campbell	60	Executive Vice President, NCR Global Sales
Beth A. Potter	61	Chief Accounting Officer

Set forth below is a description of the background of each of the Executive Officers.

Frank R. Martire is Executive Chairman of NCR, a position he has held since May 2018. Mr. Martire most recently served as Non-Executive Chairman of Fidelity National Information Services Inc. (FIS) a financial services technology company. From 2015 to 2017, he served as Executive Chairman of FIS, and from 2009 to 2015 was President and Chief Executive Officer of FIS after its acquisition of Metavante Technologies, Inc. (Metavante), a bank technology processing company. Mr. Martire previously served as Chief Executive Officer of Metavante from 2003 to 2009 and President from 2003 to 2008. Prior to that, he was President and Chief Operating Officer of Call Solutions Inc. from 2001 to 2003 and President and Chief Operating Officer, Financial Institution Systems and Services Group, of Fiserv, Inc., from 1991 to 2001. Mr. Martire is a member of the Board of Directors of J. Alexander's Holdings, Inc., where he serves as Lead Independent Director, and is a member of the Board of Directors of Cannae Holdings, Inc., where he serves as a Lead Independent Director. Mr. Martire became a director of NCR on May 31, 2018.

Michael D. Hayford is President and Chief Executive Officer of NCR, a position he has held since April 2018. Mr. Hayford was most recently Founding Partner of Motive Partners, an investment firm focused on technology-enabled companies that power the financial services industry. From 2009 until his retirement in 2013, Mr. Hayford served as the Executive Vice President and Chief Financial Officer at Fidelity National Information Services Inc. (FIS), a financial services technology company. Prior to joining FIS, Mr. Hayford was with Metavante Technologies, Inc. (Metavante), a bank technology processing company, from 1992 to 2009. He served as the Chief Operating Officer at Metavante from 2006 to 2009 and as the President from 2008 to 2009. From 2007 to 2009, Mr. Hayford also served on the Board of Directors of Metavante. Mr. Hayford was a member of the Board of Directors and the Audit Committee of Endurance International Group Holdings, Inc. from 2013 to 2019, and was a member of the Board of Directors and Chairman of the Audit Committee of West Bend Mutual Insurance Company from 2007 to 2018. Mr. Hayford became a director of NCR on April 30, 2018.

Owen J. Sullivan is Chief Operating Officer of NCR, a position he has held since July 2018. Mr. Sullivan was most recently an independent consultant, providing strategic planning, consulting and executive mentoring, and working with and investing alongside private equity firms and other investor groups. Prior to that, Mr. Sullivan was with ManpowerGroup Inc. (ManpowerGroup), a workforce and talent management solutions company, from 2003 to 2013. At ManpowerGroup, he served as President of the Specialty Brands and Experis units from 2010 to 2013 and he served as the Chief Executive Officer of the Right Management and Jefferson Wells International, Inc. subsidiaries from 2004 to 2013 and from 2003 to 2010, respectively. Before joining ManpowerGroup, Mr. Sullivan was with Sullivan Advisors, LLC, a provider of strategic planning, consulting and executive mentoring for small to medium-sized businesses from 2001 to 2003. Prior to that, Mr. Sullivan was with Metavante Technologies, Inc., a bank technology processing company, from 1993 to 2001, where he served in various management roles including as the President of Metavante's Financial Services Group and Enterprise Solutions Group. Mr. Sullivan served as a member of the Board of Directors of Johnson Financial Group, Inc., a bank holding company, where he served as a member of its Wealth Management, Risk and Succession Committees through 2018. Mr. Sullivan is a member of the Board of Directors of Computer Task Group, Incorporated and serves as a member of its Compensation and Audit Committees.

Timothy C. Oliver is Executive Vice President and Chief Financial Officer of NCR, a position he has held since July 13, 2020. Mr. Oliver most recently served as President and Chief Financial Officer of Spring Window Fashions, LLC, a consumer goods company, and a member of the company's leadership team, since September 2019. In this role he focused on, among other things, aligning the company's business portfolio and growth initiatives with its finance strategy. From 2011 to 2019, he served as Senior

Vice President and Chief Financial Officer of the Goldstein Group Inc. (GGI), a privately held conglomerate, and its subsidiary, Alter Trading Corporation (Alter), a privately held metal recycler and broker company. Mr. Oliver also served as President during the last three months in his role at Alter. Before joining GGI and Alter, he was the Senior Vice President and Chief Financial Officer of MEMC Electronic Materials, Inc., a publicly held technology company (now SunEdison, Inc.), from 2009 to 2011, and Senior Executive Vice President and Chief Financial Officer of Metavante Technologies, Inc., a publicly held bank technology processing company, from 2007 to 2009. He also previously served as Vice President and Treasurer of Rockwell Automation, Inc. (Rockwell Automation), an industrial automation and digital transformation company, from 2005 to 2007. Before joining Rockwell Automation, he was Vice President for Investor Relations and Financial Planning at Raytheon Company. Mr. Oliver's prior roles included a focus on transforming finance organizations to position companies for growth.

James M. Bedore is Executive Vice President, General Counsel and Secretary of NCR, a position he has held since November 2018. In 2019, Mr. Bedore also became Head of Corporate Development at NCR, responsible for mergers and acquisitions, integrations, partnerships, and IP monetization, and in 2020, he became Head of the newly-created NCR Office of Risk Management, responsible for enterprise risk management, ESG, third party risk management and business continuity. Prior to NCR, Mr. Bedore was an attorney in private practice with Reinhart Boerner Van Deuren s.c., where he was a Shareholder, member of the firm's Board of Directors and Chair of the firm's Securities Team, advising clients on a variety of corporate matters including mergers and acquisitions, public securities offerings on behalf of issuers and underwriters, private placements, venture capital, bank and other financing arrangements, securities compliance, reporting and disclosure obligations, corporate governance, shareholder rights and executive compensation.

Debra Bronder is Senior Vice President and Chief Human Resources Officer of NCR, a position she has held since July 2018. Most recently, she led Human Resources for Cardtronics, Inc., a global leader in ATM placement and transaction processing, from 2010 to 2017. Prior to that, Ms. Bronder was the Executive Vice President of Human Resources for Metavante Technologies, Inc. (Metavante), a bank technology processing company, from 1997 to 2009, and with Fidelity National Information Services, Inc. (FIS) from 2009 to 2010, leading the human resources activities for Metavante's merger with FIS in 2009.

Adrian Button is NCR's Executive Vice President, Product and Service Operations, a position he has held since June 2020. From February 2018 to June 2020, Mr. Button served as NCR's Senior Vice President, Hardware Product Operations. From July 2017 to February 2018, Mr. Button served as NCR's Senior Vice President, Global Operations. Before he joined NCR, Mr. Button spent 19 years in various management roles with different divisions of General Electric Company (GE). Most recently, Mr. Button served from January 2016 to July 2017 as Vice President, Supply Chain, for GE Industrial Solutions, with oversight of the division's supply chain and service operations across 41 global factories. Prior to that Mr. Button served as Vice President, Turbomachinery, for GE's Oil & Gas division from January 2014 to December 2016, as General Manager of the Global Operations team for GE's Oil & Gas division from March 2011 to December 2013, and in other operations and supply chain roles with GE Aviation.

Daniel W. Campbell is NCR's Executive Vice President, NCR Global Sales, a position he has held since February 2018. Previously, from July 2015 to February 2018, Mr. Campbell served as a Senior Vice President and General Manager at Virtustream, Inc. (Virtustream), which he joined after it was acquired by EMC Corporation (EMC) in July 2015. With Virtustream, Mr. Campbell led the global sales integration with EMC's sales organization, built a global strategic alliances and channels organization, and co-launched Virtustream Storage Cloud, an enterprise-class cloud storage platform. Before joining Virtustream, from April 1998 to July 2015, Mr. Campbell served in a series of sales and management roles of increasing responsibility at EMC, including Chief Operating Officer, Senior Vice President, Worldwide Sales, Backup and Recovery Systems Divisions, and most recently as Senior Vice President, Global Specialty Sales. Before joining EMC, Mr. Campbell served in various sales and management roles with Sperry, Unisys, Motorola and Wang.

Beth A. Potter is NCR's Chief Accounting Officer, a position she has held since November 2019. Ms. Potter has also served as the NCR Corporate Controller since 2011. From March 2007 to 2011, she served as Assistant Controller, and prior to that she served in various other leadership roles supporting NCR's finance organization.

#### **Available Information**

NCR makes available through its website at <http://investor.ncr.com>, free of charge, its Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, definitive proxy statements on Schedule 14A and Current Reports on Form 8-K, and all amendments to such reports and schedules, as soon as reasonably practicable after these reports are electronically filed or furnished to the U.S. Securities and Exchange Commission (SEC) pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act). The SEC website ([www.sec.gov](http://www.sec.gov)) contains the reports, proxy statements and information statements, and other information regarding issuers that file or furnish electronically with the SEC. NCR will furnish, without charge to a security holder upon written request, the Notice of Meeting and Proxy Statement for the 2021 Annual Meeting of Stockholders (the 2021 Proxy Statement), portions of

which are incorporated herein by reference. NCR also will furnish its Code of Conduct at no cost and any other exhibit at cost. Document requests are available by calling or writing to:

NCR—Investor Relations  
864 Spring Street NW  
Atlanta, GA 30308  
Phone: 800-255-5627  
E-Mail: [investor.relations@ncr.com](mailto:investor.relations@ncr.com)  
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NCR's website, [www.ncr.com](http://www.ncr.com), contains a significant amount of information about NCR, including financial and other information for investors. NCR encourages investors to visit its website regularly, as information may be updated and new information may be posted at any time. The contents of NCR's website are not incorporated by reference into this Form 10-K and shall not be deemed "filed" under the Exchange Act.

## Item 1A. RISK FACTORS

*The risks and uncertainties described below could materially and adversely affect our business, financial condition, results of operations, could cause actual results to differ materially from our expectations and projections, and could cause the market value of our stock to decline. You should consider these risk factors when reading the rest of this Annual Report on Form 10-K, including “Management's Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and related notes included elsewhere in this document. These risk factors may not include all of the important factors that could affect our business or our industry or that could cause our future financial results to differ materially from historic or expected results or cause the market price of our common stock to fluctuate or decline.*

### **BUSINESS OPERATIONS**

***The coronavirus (COVID-19) pandemic could materially adversely affect our business, financial condition and results of operations.*** The impact of COVID-19, including several emerging variants of COVID-19, has grown throughout the world. Governmental authorities have implemented numerous measures attempting to contain and mitigate the effects of the virus, including travel bans and restrictions, quarantines, shelter in place orders and shutdowns. While we have implemented programs to mitigate the impact of these measures on our results of operations, there can be no assurance that these programs will be successful. There is significant uncertainty regarding such measures and potential future measures.

Our manufacturing and distribution facilities are located in areas that have been affected by the pandemic and we have taken measures to try to contain it. Restrictions on our access to our manufacturing facilities or on our support operations or workforce, or similar limitations for our distributors and suppliers, could limit customer demand and/or our capacity to meet customer demand and have a material adverse effect on our business, financial condition and results of operations.

The continued spread of COVID-19 could cause delay, or limit the ability of, customers to continue to operate and perform, including in making timely payments to us, or cause a decrease in customer demand or a slowdown in customer expansion. Local governmental restrictions and public perceptions of the risks associated with the COVID-19 pandemic have caused, and may continue to cause, consumers to avoid or limit gatherings in public places or social interactions, which could adversely impact the businesses of our customers. For example, customers in our small and medium business market have experienced significant near-term working capital and adverse cash flow impacts as a result of the COVID-19 pandemic. Similarly, customers in our department and specialty retail market have encountered significant adverse impacts as a result of temporary closures of physical stores in connection with COVID-19. Furthermore, negative economic conditions related to the COVID-19 pandemic may impact the willingness of our customers to make capital expenditures or pay accounts receivable, the ability of our customers to obtain financing for the purchase of our products, or the amount of disposable income available to consumers, which may adversely impact the businesses of our customers. Any of these effects could have a material adverse effect on our business, financial condition and results of operations.

In addition, the spread of COVID-19 has caused us to modify our business practices, such as employee work locations, and we may take further actions as may be required by government authorities or that we determine is in the best interests of our employees, customers, distributors, suppliers and contractors. Remote talent management and return to work efforts may cause loss of efficiency and negatively impact our company culture and morale. There is no certainty that measures taken to mitigate the risks posed by the virus will be successful, and our ability to perform critical functions could be harmed. These measures, and similar measures at our customers, have resulted in and may result in further installation delays and other business challenges.

COVID-19 or any other adverse public health development could inhibit our ability to execute our strategic initiatives including, without limitation, expanding our customer base by increasing our use of indirect sales channels and by developing, marketing and selling solutions aimed at the small and medium business market, improving the experience of our customers, investing in growing identified strategic growth platforms and shifting the mix of revenue in our business to software and services revenue, as well as recurring revenue.

The degree to which COVID-19 affects our financial results and operations will depend on future developments, which are highly uncertain and cannot be predicted, including, but not limited to, the duration and spread of the outbreak, its severity, the actions to contain the virus or treat its impact, the distribution and the effectiveness of the COVID-19 vaccine, and how quickly and to what extent normal economic and operating conditions can resume.

***Our business may be negatively affected by domestic and global economic and credit conditions.*** Our business is sensitive to the strength of domestic and global economic and credit conditions, particularly as they affect, either directly or indirectly, the financial,

retail and hospitality sectors of the economy. Economic and credit conditions are influenced by a number of factors, including political conditions, consumer confidence, unemployment levels, interest rates, tax rates, commodity prices and government actions to stimulate economic growth. The imposition or threat of protectionist trade policies or import or export tariffs, global and regional market conditions and spending trends in the financial, retail and hospitality industries, new tax legislation across multiple jurisdictions, modified or new global or regional trade agreements, the execution of the United Kingdom's exit from the European Union (EU), uncertainty over further potential changes in Eurozone participation and fluctuations in oil and commodity prices, among other things, have created a challenging and unpredictable environment in which to market the products and services of our various businesses across our different geographies and industries. A negative or unpredictable economic climate could create uncertainty or financial pressures that impact the ability or willingness of our customers to make capital expenditures, thereby affecting their decision to purchase or roll out our products or services or, especially with respect to smaller customers, to pay accounts receivable owed to NCR. Additionally, if customers respond to a negative or unpredictable economic climate by consolidation, it could reduce our base of potential customers. Negative or unpredictable global economic conditions also may have an adverse effect on our customers' ability to obtain financing for the purchase of our products and services from third party financing companies or on the number of payment processing transactions which could negatively impact our operating results.

***Defects, errors, installation difficulties or development delays could expose us to potential liability, harm our reputation and negatively impact our business.*** Many of our products are sophisticated and complex, and may incorporate third-party hardware and software. Despite testing and quality control, we cannot be certain that defects or errors will not be found in our products. If our products contain undetected defects or errors, or otherwise fail to meet our customers' expectations, we could face the loss of customers, liability exposure and additional development costs. If defects or errors delay product installation or make it more difficult, we could experience delays in customer acceptance, or if our products require significant amounts of customer support, it could result in incremental costs to us. In addition, our customers who license and deploy our software may do so in both standard and non-standard configurations in different environments with different computer platforms, system management software and equipment and networking configurations, which may increase the likelihood of technical difficulties. Our products may be integrated with other components or software, and, in the event that there are defects or errors, it may be difficult to determine the origin of such defects or errors. Additionally, damage to, or failure or unavailability of, any significant aspect of our cloud hosting facilities could interrupt the availability of our cloud offerings, which could cause disruption for our customers, and, in turn, their customers, and expose us to liability. If any of these risks materialize, they could result in additional costs and expenses, exposure to liability claims, diversion of technical and other resources to engage in remediation efforts, loss of customers or negative publicity, each of which could negatively impact our business and operating results.

***Disruptions in our data center hosting facilities could adversely affect our business.*** Our software products are increasingly being offered and provided on a cloud or other hosted basis through data centers operated by the Company or third parties in the United States and other countries. In addition, certain of the applications and data that we use in our services offerings and our operations may be hosted or stored at such facilities. These facilities may be vulnerable to natural disasters, telecommunications failures and similar events, or to intentional acts of misconduct, such as security breaches or attacks. The occurrence of any of these events or acts, or any other unanticipated problems, at these facilities could result in damage to or the unavailability of these cloud hosting facilities. Such damage or unavailability could, despite existing disaster recovery and business continuity arrangements, interrupt the availability of our cloud offerings for our customers. We have from time to time experienced such interruptions and they may occur in the future. In addition, any such damage or unavailability could interrupt the availability of applications or data necessary to provide services or conduct critical operations. Interruptions in the availability of our cloud offerings or our ability to service our customers could result in the failure to meet contracted up-time or service levels, which could cause us to issue credits or pay penalties, or cause customers to terminate or not renew subscriptions. Interruptions could also expose us to liability claims, negative publicity and the need to engage in costly remediation efforts, any of which could impact our business and reduce our revenue.

***If third party suppliers upon which we rely are not able to fulfill our needs, our ability to timely bring our products to market could be affected.*** There are a number of vendors providing the services and producing the parts and components that we utilize in or in connection with our products. However, there are some services and components that are licensed or purchased from single sources due to price, quality, technology, functionality or other reasons. For example, we depend on transaction processing services from Accenture, computer chips and microprocessors from Intel and operating systems from Microsoft. Certain parts and components used in the manufacturing of our ATMs and the delivery of many of our retail solutions are also supplied by single sources. In addition, there are a number of key suppliers for our businesses that provide us with critical products for our solutions. If we were unable to secure the necessary services or maintain current demand, including contract manufacturing, parts, software, components or products from a particular vendor, and we had to find an alternative supplier, our new and existing product shipments and solution deliveries, or the provision of contracted services, could be delayed, impacting our business and operating results.



Certain of our suppliers have been impacted by the COVID-19 pandemic and we have mitigated critical supplier shortages by securing supplies from alternate sources, but it is possible the ongoing efforts to contain the virus could lead to additional disruptions in our supply chain.

We have, from time to time, formed alliances with third parties that have complementary products, software, services and skills. These alliances represent many different types of relationships, such as outsourcing arrangements to manufacture hardware and subcontract agreements with third parties to perform services and provide products and software to our customers in connection with our solutions. For example, we rely on Jabil Inc. to provide contract manufacturing services for our ATMs and self-service checkout solutions, primarily for our customers in the Americas. We also rely on third parties for cash replenishment services for our ATM products. These alliances introduce risks that we cannot control, such as nonperformance by third parties and difficulties with or delays in integrating elements provided by third parties into our solutions. Lack of information technology infrastructure, shortages in business capitalization, and manual processes and data integrity issues, particularly with smaller suppliers can also create product time delays, inventory and invoicing problems, and staging delays, as well as other operating issues. The failure of third parties to provide high-quality products or services that conform to required specifications or contractual arrangements could impair the delivery of our solutions on a timely basis, create exposure for non-compliance with our contractual commitments to our customers and impact our business and operating results. Also, some of these third parties have access to confidential NCR and customer data, personal data, and sensitive data, the integrity and security of which are of significant importance to the Company.

***Continuous improvement, customer experience, restructuring and cost reduction initiatives could negatively impact productivity and business results.***

In the past, we have undertaken restructuring plans, and, in addition, as part of our ongoing efforts to optimize our cost structure, from time to time we shift and realign our internal organizational structure and resources. These activities could temporarily result in reduced productivity levels. We also have ongoing initiatives to improve the experience of our customers, invest in growing identified strategic growth platforms, and shift the mix of revenue in our business to software and services revenue as well as recurring revenue. We typically have many such initiatives underway. If we are not successful in implementing and managing these various initiatives and minimizing any resulting loss in productivity, or if the costs to complete these initiatives is higher than anticipated, we may not be able to achieve targeted cost savings or productivity gains, and our business and operating results could be negatively impacted.

Additionally, from time to time we may undertake projects with respect to our office, manufacturing or other facilities. Implementation of relocation plans could result in business disruption due to a lack of business continuity, which, among other things, could have a negative impact on our productivity and business and operating results.

***If we do not retain key employees, or attract quality new and replacement employees, we may not be able to meet our business objectives.***

Our employees are vital to our success, including the successful transformation of the Company into a software- and services-led business. Therefore, our ability to retain our key business leaders and our highly skilled software development, technical, sales, consulting and other key personnel, including key personnel of acquired businesses, is critical. These key employees may decide to leave NCR for other opportunities, or may be unavailable for health or other reasons. As we reopen offices that were closed in 2020 due to the COVID-19 pandemic, we may have challenges retaining or attracting new and replacement employees due to employee concerns relating to COVID-19, such as COVID-19 vaccination rates or commuting patterns and options that are safe. In addition, as our business model evolves, we may need to attract employees with different skill sets, experience and attributes to support that evolution. If we are unable to retain our key personnel, or we are unable to attract highly qualified new and replacement employees by offering competitive compensation, secure work environments and leadership opportunities now and in the future, our business and operating results could be negatively impacted. Uncertainties or delays associated with any transition of key business leaders could also cause fluctuation in our stock price.

**STRATEGY AND TECHNOLOGY**

***If we are unsuccessful in transforming our business model, our operating results could be negatively impacted.*** In recent years, we have shifted our business model to become a software- and services-led enterprise provider, focusing on increased software and services revenue, as well as recurring revenue, to enable NCR to become an as-a-Service company. Activating our strategy to create NCR-as-a-Service could negatively impact our revenue and margin as we shift toward increasing recurring revenue. Additionally, this strategy includes the shift away from perpetual license-based products that yield revenue recognized at an earlier point in time to a term license model to include a termination for convenience which could also have a negative impact on our revenue and margin. We expect to increase our capital expenditures to support our shift to NCR-as-a-Service with the focus on our strategic growth platforms, which are the offerings with the highest growth potential to accelerate the shift. Our success depends on the return on investment generated from the capital expenditures and our ability to continue to execute these strategies, while improving the Company's cost structure. Successful execution of our strategy and the businesses associated with the strategic growth platforms depends on a number of different factors including, among others, developing, deploying and supporting the next generation of

digital first software and cloud solutions for the industries we serve; market acceptance of our new and existing software and cloud solutions; successfully expanding the payment processing market; enabling our sales force to use a consultative selling model that better incorporates our comprehensive and new solutions; transforming our services performance, capabilities and coverage to improve efficiency, incorporate remote diagnostic and other technologies and align with and support our new solutions; managing professional services and other costs associated with large solution roll-outs; integrating, developing and supporting software gained through acquisitions; and if the proposed transaction we recently announced with Cardtronics plc (Cardtronics) is consummated, successfully integrating Cardtronics with our Company to accelerate our business model transition as expected and achieve other expected benefits of the transaction. In addition, development of these businesses may require increased capital and research and development expenses and resource allocation, and while we will seek to have the right level of investment and the right level of resources focused on these opportunities, these costs may reduce our gross margins and the return on these investments may be lower, or may develop more slowly, than we expect. In addition, we continue to pursue initiatives to expand our customer base by increasing our use of indirect sales channels, and by developing, marketing and selling solutions aimed at the small- to medium-business market. It is not yet certain whether these initiatives will yield the anticipated benefits, or whether our solutions will be compelling and attractive to small- and medium-sized businesses. If we are not successful in growing software and services and expanding our customer base at the rate that we anticipate, we may not meet our growth and gross margin projections or expectations, and operating results could be negatively impacted.

***If we do not swiftly and successfully develop and introduce new solutions in the competitive, rapidly changing environment in which we do business, our business results will be impacted.*** The development process for our solutions requires high levels of innovation from our product development teams and suppliers of the components embedded or incorporated in our solutions. We expect to increase our capital expenditures and allocate these expenditures primarily to our strategic growth platforms. In addition, certain of our solutions, including our cloud solutions, may require us to build, lease or expand, and maintain, infrastructure (such as hosting centers) to support them. The development process can be lengthy and costly, and requires us to commit a significant amount of resources to bring our business solutions to market. In addition, our success may be impacted by safety and security technology and industry standards, such as EMV chip technology. We may not be able to anticipate our customers' needs and technological and industry trends accurately, or to complete development of new solutions efficiently. In addition, contract terms, market conditions or customer preferences may affect our ability to limit, sunset or end-of-life our older products in a timely or cost-effective fashion. If any of these risks materialize, we may be unable to introduce new solutions into the market on a timely basis, if at all, and our business and operating results could be impacted. Likewise, we sometimes make assurances to customers regarding the operability and specifications of new technologies, and our results could be impacted if we are unable to deliver such technologies, or if such technologies do not perform as planned. Once we have developed new solutions, if we cannot successfully market and sell those solutions, our business and operating results could be negatively impacted.

***If we do not compete effectively within the technology industry, we will not be successful.*** We operate in the intensely competitive technology industry. This industry is characterized by rapidly changing technology, disruptive technological innovation, evolving industry standards, frequent new product introductions, price and cost reductions, and increasingly greater commoditization of products making differentiation difficult. Our competitors include other large companies in the information technology industry, such as Fidelity National Information Services Inc., Fiserv, Inc., Temenos AG, Infosys Ltd., Alkami Technology, Inc., HP Inc., Diebold Nixdorf, Inc., Hyosung TNS Inc., Toshiba Tec Corporation, Oracle Corporation, Fujitsu Limited, Q2 Holdings, Inc. and ACI Worldwide, Inc., many of which have more financial and technical resources, or more widespread distribution and market penetration for their platforms and service offerings, than we do. We also compete with companies in specific industry segments, such as entry-level ATMs, POS solutions and imaging solutions. In addition, as consumers and customers in the financial, retail and hospitality industry adopt new alternative technologies such as cashless and other streamlined payment services and automated shopping solutions, we may face competition from other technology companies.

Our future competitive performance and market position depend on a number of factors, including our ability to:

- execute our NCR-as-a-Service strategy to grow our software and services revenue, as well as our recurring revenue;
- improve margin expansion while successfully reacting to competitive product and pricing pressures;
- penetrate and meet the changing competitive requirements and deliverables in developing and emerging markets;
- exploit opportunities in emerging vertical markets, such as telecommunications and technology;
- cross-sell additional products and services to our existing customer base;
- rapidly and continually design, develop and market, or otherwise maintain and introduce innovative solutions and related products and services for our customers that are competitive in the marketplace;
- react on a timely basis to shifts in market demands and technological innovations, including shifts toward the desire of banks and retailers to provide digital first experience to their customers and the use of mobile devices in transactions and payments;
- compete in reverse auctions for new and continuing business;

- reduce costs without creating operating inefficiencies or impairing product or service quality;
- maintain competitive operating margins;
- improve product and service delivery quality; and
- effectively market and sell all of our diverse solutions.

Our business and operating performance also could be impacted by external competitive pressures, such as consolidation, increasing price erosion and the entry of new competitors and technologies into our existing product and geographic markets. In addition, our customers sometimes finance our product sales through third party financing companies, and in the case of customer default, these financing companies may be forced to resell this equipment at discounted prices, competing with us and impacting our ability to sell incremental units. The impact of these product and pricing pressures could include lower customer satisfaction, decreased demand for our solutions, loss of market share and reduction of operating profits.

***Our multinational operations, including in new and emerging markets, expose us to business and legal risks.*** For the years ended December 31, 2020 and 2019, the percentage of our revenue from outside of the United States was 51% and 50%, respectively, and we expect our percentage of revenue generated outside the United States to continue to be significant. In addition, we continue to seek to further penetrate existing international markets, and to identify opportunities to enter into or expand our presence in developing and emerging markets. While we believe that our geographic diversity may help to mitigate some risks associated with geographic concentrations of operations, our ability to manufacture and sell our solutions internationally, including in new and emerging markets, is subject to risks, which include, among others:

- the impact of ongoing and future economic and credit conditions on the stability of national and regional economies and industries within those economies;
- political conditions and local regulations that could adversely affect demand for our solutions, our ability to access funds and resources, or our ability to sell products in these markets;
- the impact of a downturn in the global economy, or in regional economies, on demand for our products;
- currency exchange rate fluctuations that could result in lower demand for our products as well as generate currency translation losses;
- limited availability of local currencies to pay vendors, employees and third parties and to distribute funds outside of the country;
- changes to global or regional trade agreements that could limit our ability to sell products in these markets;
- the imposition of import or export tariffs, taxes, trade policies or import and export controls that could increase the expense of, or limit demand for our products;
- changes to and compliance with a variety of laws and regulations that may increase our cost of doing business or otherwise prevent us from effectively competing internationally;
- government uncertainty or limitations on the ability to enforce legal rights and remedies, including as a result of new, or changes to, laws and regulations;
- reduced protection for intellectual property rights in certain countries;
- implementing and managing systems, procedures and controls to monitor our operations in foreign markets;
- changing competitive requirements and deliverables in developing and emerging markets;
- longer collection cycles and the financial viability and reliability of contracting partners and customers;
- managing a geographically dispersed workforce, work stoppages and other labor conditions or issues;
- disruptions in transportation and shipping infrastructure; and
- the impact of civil unrest relating to war and terrorist activity on the economy or markets in general, or on our ability, or that of our suppliers, to meet commitments.

In addition, as a result of our revenue generated outside of the United States, the amount of cash and cash equivalents that is held by our foreign subsidiaries continues to be significant. After the Tax Cuts and Jobs Act of 2017, in general we will not be subject to additional U.S. taxes if cash and cash equivalents and short-term investments held outside the U.S. are distributed to the U.S. in the form of dividends or otherwise. However, we may be subject to foreign withholding taxes, which could be significant.

***If we do not successfully integrate acquisitions or effectively manage alliance activities, we may not drive future growth.*** As part of our overall solutions strategy, we have made, and intend to continue to make, investments in companies, solutions, services and technologies, either through acquisitions, investments, joint ventures or strategic alliances. These activities allow us to further our company strategy and provide us access to new technology or solutions that expand our offerings. In January 2021, we announced

that NCR entered into a definitive agreement under which it will acquire all outstanding shares of Cardtronics plc (“Cardtronics”) in an all-cash transaction. The transaction is expected to close in mid-year 2021, subject to receipt of regulatory approvals and satisfaction of customary closing conditions, including approval by Cardtronics’ shareholders. Acquisitions, including the proposed Cardtronics acquisition, and alliance activities inherently involve risks. The risks we may encounter include those associated with:

- disruption to our business and the continued successful execution of our company strategy, goals and responsibilities, including but not limited to the Company’s 80/60/20 plan regarding mix shift to software and services, recurring revenue and adjusted EBITDA margin expansion, as well as the NCR-as-a-Service model, while managing significant transactions such as Cardtronics;
- assimilation and integration of different business operations, corporate cultures, personnel, infrastructures (such as data centers) and technologies or solutions acquired or licensed, while maintaining quality, and designing and implementing appropriate risk management measures;
- retention of key and talent associated with the acquired or combined business;
- the incurrence of significant transaction fees and costs;
- the potential for unknown liabilities within the acquired or combined business that we may not become aware of until after the completion of the acquisition; and
- the possibility of conflict with joint venture or alliance partners regarding strategic direction, prioritization of objectives and goals, governance matters or operations.

There is risk that the integration, new technology or solutions, including but not limited to expanded payment processing and entry into ATM-as-a-Service, may not perform as anticipated, may take longer than anticipated and may not meet estimated growth projections or expectations, or investment recipients may not successfully execute their business plans. Further, we may not achieve the projected efficiencies and synergies once we have integrated the business into our operations, which may lead to additional costs not anticipated at the time of acquisition. In the event that these risks materialize, we may not be able to fully realize the benefit of our investments, and our operating results could be adversely affected.

## FINANCE AND ACCOUNTING

***Our level of indebtedness could limit our financial and operating activities and adversely affect our ability to incur additional debt to fund future needs.*** At December 31, 2020, we had approximately \$3.32 billion of total indebtedness outstanding. Additionally, at December 31, 2020, we had approximately \$999 million of secured debt available for borrowing under our senior secured credit facility. Further, as previously announced, in connection with the proposed transaction with Cardtronics, we expect to incur a substantial amount of additional indebtedness. We expect certain revised terms applicable to our secured indebtedness including, but not limited to, the extension of certain maturity dates, to also take effect upon the consummation of the proposed transaction. This level of indebtedness could:

- require us to dedicate a substantial portion of our cash flow to the payment of principal and interest, thereby reducing the funds available for operations and future business opportunities;
- make it more difficult for us to satisfy our obligations with respect to our outstanding senior unsecured notes, including our change in control repurchase obligations;
- limit our ability to borrow additional money if needed for other purposes, including working capital, capital expenditures, debt service requirements, acquisitions and general corporate or other purposes, on satisfactory terms or at all;
- limit our ability to adjust to changing economic, business and competitive conditions;
- place us at a competitive disadvantage with competitors who may have less indebtedness or greater access to financing;
- make us more vulnerable to an increase in interest rates, a downturn in our operating performance or a decline in general economic conditions; and
- make us more susceptible to adverse changes in credit ratings, which could impact our ability to obtain financing in the future and increase the cost of such financing.

To the extent that we are unable to successfully integrate Cardtronics or achieve the projected efficiencies and synergies of the acquisition, it may materially adversely affect our ability to service the additional indebtedness we expect to incur in connection with the proposed transaction. If compliance with our debt obligations materially limits our financial or operating activities, or

hinders our ability to adapt to changing industry conditions, we may lose market share, our revenue may decline and our operating results may be negatively affected.

***The terms of the documents governing our indebtedness include financial and other covenants that could restrict or limit our financial and business operations.*** Our senior secured credit facility and the indentures for our senior unsecured notes include restrictive covenants that, subject to certain exceptions and qualifications, restrict or limit our ability and the ability of our subsidiaries to, among other things:

- incur additional indebtedness;
- create liens on, sell or otherwise dispose of, our assets;
- engage in certain fundamental corporate changes or changes to our business activities;
- make certain investments or material acquisitions;
- engage in sale-leaseback or hedging transactions;
- repurchase our common stock, pay dividends or make similar distributions on our capital stock;
- repay certain indebtedness;
- engage in certain affiliate transactions; and
- enter into agreements that restrict our ability to create liens, pay dividends or make loan repayments.

The senior secured credit facility and the indentures also contain certain affirmative covenants, and the senior secured credit facility requires us to comply with a financial coverage ratio regarding our debt relative to our Consolidated EBITDA (as defined in the senior secured credit facility).

These covenants and restrictions could affect our ability to operate our business and may limit our ability to react to market conditions or take advantage of potential business opportunities as they arise. Additionally, our ability to comply with these covenants may be affected by events beyond our control, including general economic and credit conditions and industry downturns. Further, as previously announced, in connection with the proposed transaction with Cardtronics and financing transactions related to it, we expect certain covenants and restrictions will change upon consummation of the transaction.

In addition, under our trade receivables securitization facility, we are required, among other things, to maintain certain financial tests relating to the three month rolling average ratio of defaults, delinquencies, dilution and days sales outstanding of the receivables pool (as such ratios and tests are described in the agreement governing our trade receivables securitization facility).

If we fail to comply with these covenants and are unable to obtain a waiver or amendment from the applicable lenders, an event of default would result under these agreements and under other agreements containing related cross-default provisions.

- Upon an event of default under the senior secured credit facility, the lenders could, among other things, declare outstanding amounts due and payable, refuse to lend additional amounts to us, or require us to deposit cash collateral in respect of outstanding letters of credit. If we were unable to repay or pay the amounts due, the lenders could, among other things, proceed against the collateral granted to them to secure such indebtedness, which includes certain of our domestic assets and the equity interests of certain of our domestic and foreign subsidiaries.
- Upon an event of default under the indentures, the trustee or holders of our senior unsecured notes could declare all outstanding amounts immediately due and payable.
- Upon an event of default under our trade receivables securitization facility, the lenders could, among other things, terminate the facility, declare all capital and other obligations to be immediately due and payable, replace us as servicer, take over receivables lock-box accounts and redirect the collections of domestic accounts receivable from those accounts, and exercise available rights against the domestic accounts receivable pledged by NCR Receivables, LLC.

***Despite our current levels of debt, we may still incur substantially more debt, including secured debt, and similar liabilities, which would increase the risks described in these risk factors relating to indebtedness and repurchase obligations.*** The agreements relating to our debt limit, but do not prohibit, our ability to incur additional debt, and the amount of debt that we could incur could be substantial. In addition, certain types of liabilities are not considered “Indebtedness” under our senior secured credit facility or the indentures governing our senior unsecured notes, and the senior secured credit facility and indentures do not impose any limitation on the amount of liabilities incurred by the subsidiaries, if any, that might be designated as “unrestricted

subsidiaries” (as defined in the indentures). Accordingly, we could incur significant additional debt or similar liabilities in the future, including additional debt under our senior secured credit facility, some of which could constitute secured debt. In addition, if we form or acquire any subsidiaries in the future, those subsidiaries also could incur debt or similar liabilities. If new debt or similar liabilities are added to our current debt levels, the related risks that we now face could increase.

We may, from time to time, seek to opportunistically refinance, amend and/or reprice any of our debt, obtain additional debt financing, reduce or extend our debt, lower our interest payments, or otherwise seek to improve our financial position or the terms of our debt agreements. These actions may include open market debt repurchases, negotiated repurchases, or other repayments, redemptions or retirements of our debt. The amount of debt that may be borrowed or issued, refinanced, and/or repurchased, repaid, redeemed or otherwise retired, if any, will depend on market conditions, trading levels of our debt, our cash position, compliance with our debt covenants and other considerations. Any such actions could impact our financial condition or results of operations.

***Our cash flows may not be sufficient to service our indebtedness, and if we are unable to satisfy our obligations under our indebtedness, we may be required to seek other financing alternatives, which may not be successful.*** Our ability to make timely payments of principal and interest on our debt obligations depends on our ability to generate positive cash flows from operations, which is subject to general economic conditions, competitive pressures and certain financial, business and other factors beyond our control. If our cash flows and capital resources are insufficient to make these payments, we may be required to seek additional financing sources, reduce or delay capital expenditures, sell assets or operations or refinance our indebtedness. These actions could have an adverse effect on our business, financial condition and results of operations. In addition, we may not be able to take any of these actions, and, even if successful, these actions may not permit us to meet our scheduled debt service obligations. Our ability to restructure or refinance our outstanding indebtedness will depend on, among other things, the condition of the capital markets and our financial condition at such time. There can be no assurance that we will be able to restructure or refinance any of our indebtedness on commercially reasonable terms or at all. If we cannot make scheduled payments on our debt, we will be in default and the outstanding principal and interest on our debt could be declared to be due and payable, in which case we could be forced into bankruptcy or liquidation or required to substantially restructure or alter our business operations or debt obligations.

***Borrowings under our senior secured credit facility and trade receivables securitization facility bear interest at a variable rate, which subjects us to interest rate risk, which could cause our debt service obligations to increase significantly.*** All of our borrowings under our senior secured credit facility and trade receivables securitization facility are at variable rates of interest and expose us to interest rate risk. If interest rates increase, our debt service obligations on this variable rate indebtedness would increase even though the amount borrowed remained the same. Although we may enter into interest rate swaps or similar instruments to reduce interest rate volatility in connection with our variable rate borrowings, we cannot provide assurances that we will be able to do so or that such swaps or instruments will be effective.

***We may not be able to raise the funds necessary to finance a required repurchase of our senior unsecured notes or our Series A Convertible Preferred Stock.*** Upon the occurrence of a change in control under the applicable indenture governing the applicable senior unsecured notes, holders of those notes may require us to repurchase their notes. On any date during the three months commencing on and immediately following March 16, 2024 and the three months commencing on and immediately following every third anniversary of such date, holders of our Series A Convertible Preferred Stock will have the right to require us to repurchase any or all of our outstanding Series A Convertible Preferred Stock. In addition, upon certain change of control events involving the Company, holders of Series A Convertible Preferred Stock can require us, subject to certain exceptions, to repurchase any or all of their Series A Convertible Preferred Stock.

It is possible that we would not have sufficient funds at the time that we are required to make any such purchase of notes or Series A Convertible Preferred Stock (or both). We cannot assure the holders of the senior unsecured notes and Series A Convertible Preferred Stock that we will have sufficient financial resources, or will be able to arrange financing, to pay the repurchase price in cash with respect to any such notes or Series A Convertible Preferred Stock that holders have requested to be repurchased upon a change in control or scheduled redemption. Our failure to repurchase the senior unsecured notes of a series when required would result in an event of default with respect to such notes which could, in turn, constitute a default under the terms of our other indebtedness, if any. If we are unable to repurchase all shares of Series A Convertible Preferred Stock that holders have requested to be purchased, then we are required to pay dividends on the shares not repurchased at a rate equal to 8.0% per annum, accruing daily from such date until the full purchase price, plus all accrued dividends, are paid in full in respect of such shares of Series A Convertible Preferred Stock.

In addition, a change in control may constitute an event of default under our senior secured credit facility and our trade receivables securitization facility that would permit the lenders to accelerate the maturity of the borrowings thereunder and would require us to make a similar change in control offer to holders of our existing senior unsecured notes.

Certain important corporate events, such as leveraged recapitalizations that would increase the level of our indebtedness, may not constitute a change in control under the indentures governing our secured notes or the terms of our Series A Convertible Preferred Stock.

***A lowering or withdrawal of the ratings assigned to our debt securities by rating agencies may increase our future borrowing costs and reduce our access to capital.*** Any rating assigned to our debt could be lowered or withdrawn entirely by a rating agency if, in that rating agency's judgment, future circumstances relating to the basis of the rating, such as adverse changes, so warrant. Any future lowering of our ratings likely would make it more difficult or more expensive for us to obtain additional debt financing.

***Our pension liabilities could adversely affect our liquidity and financial condition.*** At December 31, 2020, our obligation for benefits under our pension plans was \$3,313 million and our pension plan assets totaled \$2,646 million, which resulted in an underfunded pension obligation of \$667 million. While we rebalanced our U.S. and international plan assets in order to reduce volatility, made several discretionary contributions to our pension plans and have, from time to time, completed de-risking actions, including plan settlements, our remaining underfunded pension obligation continues to require ongoing cash contributions. Our underfunded pension obligation also may be affected by future transfers and settlements relating to our pension plans.

In addition, certain of the plan assets remain subject to financial market risk, and our actuarial and other assumptions underlying our expected future benefit payments, long-term expected rate of return and future funding expectations for our plans depend on, among other things, interest rate levels and trends and capital market expectations. Further volatility in the performance of financial markets, changes in any of these actuarial assumptions (including those described in our "Critical Accounting Policies and Estimates" section of the "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in Item 7 of Part II of this Report) or changes in regulations regarding funding requirements could require material increases to our expected cash contributions to our pension plans in future years.

***We may be required to write down the value of certain significant assets, which would adversely affect our operating results.*** We have a number of significant assets on our balance sheet as of December 31, 2020 and the value of these assets can be adversely impacted by factors related to our business and operating performance, as well as factors outside of our control. We recognize deferred tax assets and liabilities based on the differences between the financial statement carrying amounts and the tax basis of assets and liabilities. Our deferred tax assets, net of valuation allowances, totaled approximately \$1,109 million and \$996 million at December 31, 2020 and 2019, respectively. We regularly review our deferred tax assets for recoverability and establish a valuation allowance if it is more likely than not that some portion or all of a deferred tax asset will not be realized. If we are unable to generate sufficient future taxable income, if there is a material change in the actual effective tax rates or if there is a change to the time period within which the underlying temporary differences become taxable or deductible, then we could be required to increase our valuation allowance against our deferred tax assets, which could result in a material increase in our effective tax rate.

NCR has previously recorded valuation allowances related to certain deferred tax assets due to the uncertainty of the ultimate realization of the future benefits from those assets. The recorded valuation allowances cover deferred tax assets, primarily tax loss carryforwards and branch basket foreign tax credits, in tax jurisdictions where there is uncertainty as to the ultimate realization of those tax losses and credits. As of December 31, 2020, the Company's net deferred tax assets (without valuation allowances) in the U.S. totaled approximately \$469 million. For the three year period ended December 31, 2020, the U.S. had a cumulative net loss from continuing operations before income taxes, as adjusted for permanent differences, which is generally considered a negative indicator of the Company's ability to realize the benefits of those assets. However, the Company evaluated the realizability of the U.S. net deferred tax assets by weighing positive and negative evidence, including our history of U.S. pre-tax income adjusted for permanent differences, the impact of the COVID-19 pandemic on our U.S. results in 2020 and in the near-term, projected U.S. taxable income, and the length of time over which the Company's deferred tax assets relating to net operating losses, general basket foreign tax credits, interest limitation carryforward, research and development credits and a variety of temporary differences may be realized. A specific focus of the evaluation was the realizability of the Company's general basket foreign tax credit carryforwards, which expire on or before December 31, 2025. Through this assessment, realization of the related benefits was determined to be more likely than not. If the Company is unable to generate sufficient future U.S. taxable income of the proper source in the time period within which the temporary differences underlying our deferred tax assets become deductible, or before the expiration of our loss and credit carryforwards, additional valuation allowances could be required in the future.

## INFORMATION SECURITY

***Data protection, cybersecurity and data privacy issues could negatively impact our business.*** Our products and services, including our cloud and hosted solutions as well as our end-to-end payment processing business, facilitate financial and other transactions for the customers in the industries we serve. As a result, we collect, use, transmit and store certain of the transaction and personal data

of our customers and end-users. We also may have access to transaction and personal data of our customers and their customers through or in the course of servicing our products or third party products. Additionally, we collect, use and store personal data of our employees and the personnel of our business partners, such as resellers, suppliers and contractors, in the ordinary course of business. While we have programs and measures in place designed to safeguard this data, and while we have implemented access controls designed to limit the risk of unauthorized use or disclosure by employees and contractors, the techniques used to obtain unauthorized access to this data are complex and changing, as are the underlying objectives of the attacker, like targeted business disruption, financial impact, intellectual property theft, political motives, or sophisticated nation-state sponsored and organized cyber-criminal activity, and may be difficult to detect for long periods of time. An attack, disruption, intrusion, denial of service, theft or other breach, or an inadvertent act by an employee or contractor, could result in unauthorized access to, or disclosure of, this data, resulting in claims, costs and reputational harm that could negatively affect our operating results. We may also detect, or may receive notice from third parties (including governmental agencies) regarding potential vulnerabilities in our information technology systems, our products, or third party products used in conjunction with our products or our business. In the course of our business activities, NCR contracts with numerous suppliers, vendor and resellers who may experience a cybersecurity, data protection or privacy issue that could negatively affect our operating results. Even if these potential vulnerabilities do not result in a data breach, their existence can adversely affect customer confidence and our reputation in the marketplace. To the extent such vulnerabilities require remediation, such remedial measures could require significant resources and may not be implemented before such vulnerabilities are exploited. As the landscape evolves, we may also find it necessary to make significant further investments to protect data and infrastructure.

Like most companies, NCR is regularly the subject of attempted cyberattacks, which may involve personal data. To date, the Company is not aware of any that have caused adverse consequences material to the Company. Most such attacks are detected and prevented by the Company's various information technology and data protections, including but not limited to firewalls, intrusion prevention systems, denial of service detection, anomaly based detection, anti-virus/anti-malware, endpoint encryption and detection and response software, Security Information and Event Management (SIEM) system, identity management technology, security analytics, multi-factor authentication and encryption. There can be no assurance that our protections will always be successful.

The Company has established relationships with cybersecurity firms, which it engages in connection with certain suspected incidents. The costs arising from those engagements, which depending on the incident may include both investigatory and remedial efforts, have not to date been material to the Company. The Company also regularly undergoes evaluation of its protections against incidents, including both self-assessments and expert third-party assessments, and it regularly enhances those protections, both in response to specific threats and as part of the Company's efforts to stay current with advances in cybersecurity defense. When the Company experiences a confirmed cybersecurity incident it generally performs root cause analyses and in appropriate instances will implement additional controls based on those analyses. In 2020, the Company used approximately 10% of its overall IT budget on cybersecurity efforts. There can be no assurance that the Company or its cybersecurity consultants will be able to prevent or remediate all future incidents or that the cost associated with responding to any such incident will not be significant.

The personal information and other data that we process and store also is increasingly subject to data security and data privacy obligations and laws of many jurisdictions, which are increasing in complexity and sophistication as data becomes more enriched and technology and the global data protection landscape evolves. These laws may conflict with one another, and many of them are subject to frequent modification and differing interpretations. The laws impose a significant compliance burden and include, for example, the EU's General Data Protection Regulation (GDPR), the California Consumer Privacy Act and the Brazilian General Data Protection Law that went into effect in 2020. Complying with these evolving and varying standards could require significant expense and effort, and could require us to change our business practices or the functionality of our products and services in a manner adverse to our customers and our business. In addition, violations of these laws can result in significant fines, penalties, claims by regulators or other third parties, and damage to our brand and business. The GDPR, for example, includes fines of up to €20 million or up to 4% of the annual global revenues of the infringer for failure to comply, and grants corrective powers to supervisory authorities including the ability to impose a limit on processing of personal data. The laws also cover the transfer of personal, financial and business information, including transfers of employee information between us and our subsidiaries, across international borders.

## LAW AND COMPLIANCE

***Our continuing ability to be a leading software- and services-led enterprise provider could be negatively affected if we do not protect our intellectual property, especially our software.*** It is critical to our strategy, and the benefits provided by our innovations and technologies, that we are able to protect, leverage and rely on our intellectual property, including our intellectual property rights. We protect our innovations and technologies through intellectual property rights, including through patents, copyrights, trademarks (including service marks) and trade secrets. To the extent we are not successful in protecting our intellectual property, including our software, our business could be adversely impacted.



Many of our offerings rely on technologies developed by others, and if we are unable to continue to obtain licenses for such technologies, our business could be adversely impacted.

From time to time, we receive notices and other communications from third parties, including our customers, regarding patents and other intellectual property rights. We also, from time to time, receive claims from third parties regarding infringement of patents and other intellectual property rights. Whether those claims have merit, they may require significant resources to analyze and defend, as appropriate. If an infringement claim is successful and we are required to pay damages, or we are unable to license the infringed item or substitute a similar non-infringing item on a reasonable basis, our business could be adversely impacted.

***Unanticipated changes to our tax rates and additional income tax liabilities could impact profitability.*** We are a United States based multinational company subject to income taxes in the United States and a number of foreign jurisdictions. Our domestic and international tax liabilities are dependent on the distribution of our earnings among these different jurisdictions, and our provision for income taxes and cash tax liability could be adversely affected if the distribution of earnings is higher than expected in jurisdictions with higher statutory tax rates.

In addition, changes in U.S. or foreign tax laws and regulations, which have become more rapid in recent years and are subject to change due to changes in the then-current applicable administration or otherwise, or tax rulings could affect our financial position and results of operations. For example, in light of continuing global fiscal challenges, various levels of government and international organizations such as the Organization for Economic Co-operation and Development (OECD) and EU are increasingly focused on tax reform and other legislative or regulatory action to increase tax revenue. These tax reform efforts, such as the OECD-led Base Erosion and Profit Shifting project (BEPS), are designed to ensure that corporate entities are taxed on a larger percentage of their earnings. Although some countries have passed tax laws based on findings from the BEPS project, the final nature, timing and extent of any such tax reforms or other legislative or regulatory actions is unpredictable, and it is difficult to assess their overall effect. But, these changes could increase our effective tax rate and adversely impact our financial results.

We are also subject to ongoing audits of our income tax returns in various jurisdictions both in the U.S. and internationally and could be subject to additional audits focusing on transfer pricing. While we believe that our tax positions will be sustained, the outcomes of such audits could result in the assessment of additional taxes, which could adversely impact our cash flows and financial results.

***We face uncertainties with regard to regulations, lawsuits and other related matters.*** In the normal course of business, we are subject to proceedings, lawsuits, claims and other matters, including, for example, those that relate to the environment, health and safety, labor and employment, employee benefits, import/export compliance, intellectual property, data privacy and security, product liability, commercial disputes and regulatory compliance, among others. Because such matters are subject to many uncertainties, their outcomes are not predictable and we must make certain estimates and assumptions in our financial statements. While we believe that amounts provided in our Consolidated Financial Statements with respect to such matters are currently adequate in light of the probable and estimable liabilities, there can be no assurances that the amounts required to satisfy alleged liabilities from such matters will not impact future operating results. Additionally, we are subject to diverse and complex laws and regulations, including those relating to corporate governance, public disclosure and reporting, environmental safety and the discharge of materials into the environment, product safety, import and export compliance, data privacy and security, antitrust and competition, government contracting, anti-corruption, and labor and human resources, which are rapidly changing and subject to many possible changes in the future. Compliance with these laws and regulations, including changes in accounting standards, taxation requirements, and federal securities laws among others, may create a substantial burden on us, and substantially increase costs to our organization or could have an impact on our future operating results.

Additionally, doing business on a worldwide basis requires us and our subsidiaries to comply with the laws and regulations of the U.S. government and various international jurisdictions. For example, our international operations are subject to U.S. and foreign anti-corruption laws and regulations, such as the Foreign Corrupt Practices Act (FCPA), which generally prohibits U.S. companies or agents acting on behalf of such companies from making improper payments to foreign officials for the purpose of obtaining or keeping business. Our international operations are also subject to economic sanction programs administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). If we are not in compliance with such laws and regulations, we may be subject to criminal and civil penalties, which may cause harm to our reputation and to our brand and could have an adverse effect on our business, financial condition and results of operations.

## **ENVIRONMENTAL, SOCIAL AND GOVERNANCE**

***Our historical and ongoing manufacturing activities subject us to environmental exposures.*** Our facilities and operations are subject to a wide range of environmental protection laws, and we have investigatory and remedial activities underway at a number of facilities that we currently own or operate, or formerly owned or operated, to comply, or to determine compliance, with such laws. In addition, our products are subject to environmental laws in a number of jurisdictions. Given the uncertainties inherent in such activities, there can be no assurances that the costs required to comply with applicable environmental laws will not impact future operating results. We have also been identified as a potentially responsible party in connection with certain environmental matters, including the Fox River and Kalamazoo River matters, as further described in Note 9, "Commitments and Contingencies" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report; in "Government Regulations" within Item 1 of Part I of this Report; and in "Environmental and Legal Contingencies" within the "Critical Accounting Policies and Estimates" section of "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in Item 7 of Part II of this Report, and we incorporate such disclosures by reference and make them a part of this discussion of risk factors.

***The issuance of shares of our Series A Convertible Preferred Stock reduces the relative voting power of holders of our common stock, and the conversion and sale of those shares would dilute the ownership of such holders and may adversely affect the market price of our common stock.*** As of December 31, 2020, approximately 0.3 million shares of our Series A Convertible Preferred Stock were outstanding, representing approximately 7% of our outstanding common stock, including the Series A Convertible Preferred Stock on an as-converted basis. Holders of Series A Convertible Preferred Stock are entitled to a cumulative dividend at the rate of 5.5% per annum, which was payable quarterly in arrears and payable in-kind for the first sixteen dividend payments, after which, beginning in the first quarter of 2020, are payable in cash or in-kind at the option of the Company. If we fail to timely declare and pay a dividend, the dividend rate will increase to 8.0% per annum until such time as all accrued but unpaid dividends have been paid in full.

As holders of our Series A Convertible Preferred Stock are entitled to vote, on an as-converted basis, together with holders of our common stock on all matters submitted to a vote of the holders of our common stock, the Series A Convertible Preferred Stock, and the subsequent issuance of additional shares of Series A Convertible Preferred Stock through the payment of in-kind dividends, effectively reduces the relative voting power of the holders of our common stock.

In addition, the conversion of the Series A Convertible Preferred Stock to common stock would dilute the ownership interest of existing holders of our common stock, and any sales in the public market of the common stock issuable upon conversion of the Series A Convertible Preferred Stock would increase the number of shares of our common stock available for public trading, and could adversely affect prevailing market prices of our common stock.

***Our Series A Convertible Preferred Stock has rights, preferences and privileges that are not held by, and are preferential to, the rights of our common stockholders, which could adversely affect our liquidity and financial condition, and may result in the interests of the holders of our Series A Convertible Preferred Stock differing from those of our common stockholders.*** The holders of our Series A Convertible Preferred Stock have the right to receive a liquidation preference entitling them to be paid out of our assets available for distribution to stockholders before any payment may be made to holders of any other class or series of capital stock, an amount equal to the greater of (a) 100% of the liquidation preference thereof plus all accrued dividends or (b) the amount that such holder would have been entitled to receive upon our liquidation, dissolution and winding up if all outstanding shares of Series A Convertible Preferred Stock had been converted into common stock immediately prior to such liquidation, dissolution or winding up.

In addition, dividends on the Series A Convertible Preferred Stock accrue and are cumulative at the rate of 5.5% per annum, payable quarterly in arrears. If we fail to timely declare and pay a dividend, the dividend rate will increase to 8.0% per annum until such time as all accrued but unpaid dividends have been paid in full. The dividends were payable in-kind for the first sixteen dividend payments, after which, beginning in the first quarter of 2020, dividends are payable in cash or in-kind at the option of the Company.

The holders of our Series A Convertible Preferred Stock also have certain redemption rights or put rights, including the right to require us to repurchase all or any portion of the Series A Convertible Preferred Stock on any date during the three months commencing on and immediately following March 16, 2024 and the three months commencing on and immediately following every third anniversary of such date, at 100% of the liquidation preference thereof plus all accrued but unpaid dividends, and the right, subject to certain exceptions, to require us to repurchase all or any portion of the Series A Convertible Preferred Stock upon certain change of control events at the greater of (a) 100% of the liquidation preference thereof plus all accrued but unpaid dividends and (b) the consideration the holders would have received if they had converted their shares of Series A Convertible Preferred Stock into common stock immediately prior to the change of control event.

These dividend and share repurchase obligations could impact our liquidity and reduce the amount of cash flows available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes. Our obligations to

the holders of Series A Convertible Preferred Stock could also limit our ability to obtain additional financing or increase our borrowing costs, which could have an adverse effect on our financial condition. The preferential rights could also result in divergent interests between the holders of our Series A Convertible Preferred Stock and holders of our common stock.

*We could be subject to actions or proposals from stockholders that do not align with our business strategies or the interests of our other stockholders.* While we seek to actively engage with stockholders and consider their views on business, strategy, and environmental, social and governance issues, responding to these stockholders could be costly and time-consuming, disrupt our business and operations, and divert the attention of our Board of Directors and senior management. Uncertainties associated with such activities could interfere with our ability to effectively execute our strategic plan, impact customer retention and long-term growth, and limit our ability to hire and retain personnel. In addition, actions of these stockholders may cause periods of fluctuation in our stock price based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

**Item 1B. UNRESOLVED STAFF COMMENTS**

None.

**Item 2. PROPERTIES**

As of December 31, 2020, NCR operated 235 facilities consisting of approximately 6.0 million square feet in 60 countries throughout the world, which are generally used by all of NCR's operating segments. On a square footage basis, 12% of these facilities are owned and 88% are leased. Within the total facility portfolio, NCR operates 14 research and development and manufacturing facilities totaling 1.2 million square feet, 100% of which is leased. The remaining 4.8 million square feet of space includes office, repair, and warehousing space and other miscellaneous sites, and is 83% leased. NCR also owns 7 land parcels totaling 2.6 million square feet in 2 countries.

NCR is headquartered in Atlanta, Georgia, USA. Our address at our corporate headquarters is 864 Spring Street Northwest, Atlanta Georgia, 30308, USA.

**Item 3. LEGAL PROCEEDINGS**

Information regarding legal proceedings is included in Item 8 of Part II of this Report as part of Note 9, "Commitments and Contingencies" of the Notes to Consolidated Financial Statements and is incorporated herein by reference.

**Item 4. MINE SAFETY DISCLOSURES**

Not applicable.

**PART II**

**Item 5. MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

**Market Information**

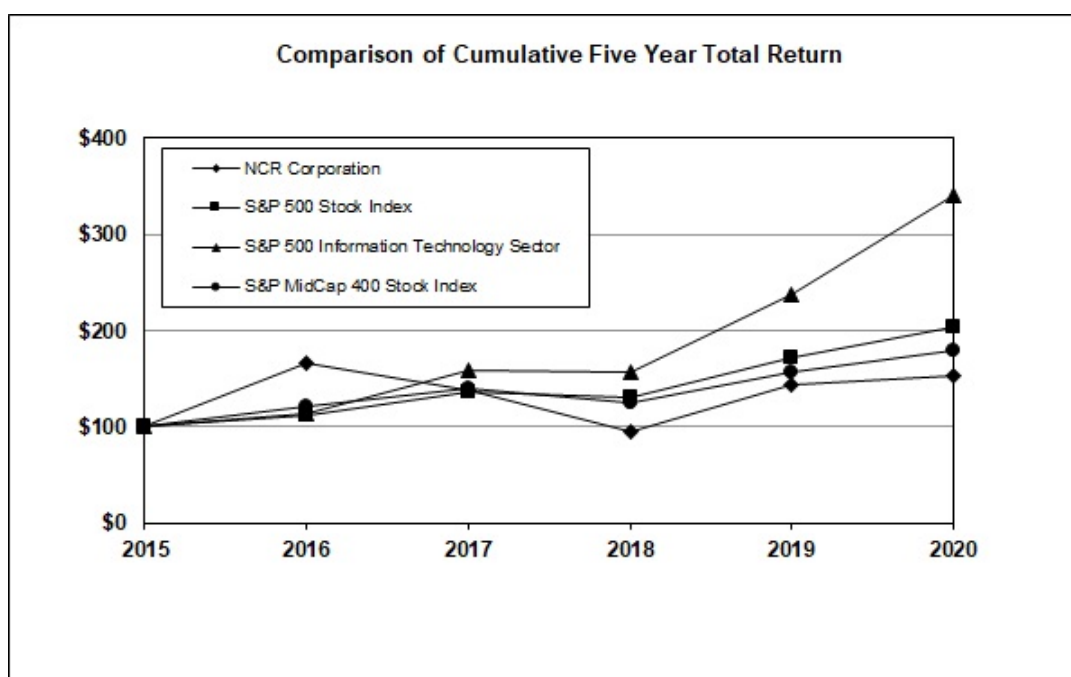
NCR common stock is listed on the New York Stock Exchange (NYSE) and trades under the symbol "NCR". There were approximately 76,161 holders of NCR common stock as of February 12, 2021.

**Dividends**

Historically NCR has not paid cash dividends and does not anticipate the payment of cash dividends on NCR common stock in the immediate future. The declaration of dividends is restricted under our senior secured credit facility and the terms of the indentures for our senior unsecured notes, and would be further subject to the discretion of NCR's Board of Directors.

**Stock Performance Graph**

The following graph compares the relative investment performance of NCR stock, the Standard & Poor's MidCap 400 Stock Index, Standard & Poor's 500 Information Technology Sector and the Standard & Poor's 500 Stock Index. This graph covers the five-year period from December 31, 2015 through December 31, 2020.



<u>Company / Index</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
NCR Corporation	\$ 166	\$ 139	\$ 94	\$ 144	\$ 154
S&P 500 Stock Index	\$ 112	\$ 136	\$ 130	\$ 171	\$ 203
S&P 500 Information Technology Sector	\$ 114	\$ 158	\$ 158	\$ 237	\$ 341
S&P MidCap 400 Stock Index	\$ 121	\$ 140	\$ 125	\$ 157	\$ 179

<sup>(1)</sup> In each case, assumes a \$100 investment on December 31, 2015, and reinvestment of all dividends, if any.

## **Purchase of Company Common Stock**

On October 19, 2016, the Board approved a share repurchase program, with no expiration from the date of authorization, for the systematic repurchase of the Company's common stock to offset the dilutive effects of the Company's employee stock purchase plan, equity awards and in-kind dividends on the Company's Series A Convertible Preferred Stock. Availability under this program accrues quarterly based on the average value of dilutive issuances during the quarter.

On March 12, 2017, the Board approved a second share repurchase program that provides for the repurchase of up to \$300 million of the Company's common stock. On July 25, 2018, the Board authorized an incremental \$200 million of share repurchases under this program.

No shares were repurchased under these programs during the three months ended December 31, 2020.

As of December 31, 2020, approximately \$153 million was available for repurchases under the March 2017 program, and approximately \$536 million was available for repurchases under the October 2016 dilution offset program. The timing and amount of repurchases under these programs depend upon market conditions and may be made from time to time in open market purchases, privately negotiated transactions, accelerated stock repurchase programs, issuer self-tender offers or otherwise. The repurchases will be made in compliance with applicable securities laws and may be discontinued at any time.

The Company occasionally purchases vested restricted stock or exercised stock options at the current market price to cover withholding taxes. For the three months ended December 31, 2020, 57,638 shares of vested restricted stock were purchased at an average price of \$24.33 per share.

The Company's ability to repurchase its common stock is restricted under the Company's senior secured credit facility and terms of the indentures for the Company's senior unsecured notes, which prohibit certain share repurchases, including during the occurrence of an event of default, and establish limits on the amount that the Company is permitted to allocate to share repurchases and other restricted payments. The limitations are calculated using formulas based generally on 50% of the Company's consolidated net income for the period beginning in the third quarter of 2012 through the end of the most recently ended fiscal quarter, subject to certain other adjustments and deductions, with certain prescribed minimums. These formulas are described in greater detail in the Company's senior secured credit facility and the indentures for the Company's senior unsecured notes, each of which is filed with the SEC.

**Item 6. SELECTED FINANCIAL DATA**
**In millions, except per share and employee and contractor amounts**
**For the years ended December 31**

	2020	2019	2018	2017	2016
<b>Continuing Operations <sup>(a,d)</sup></b>					
Revenue	\$ 6,207	\$ 6,915	\$ 6,405	\$ 6,516	\$ 6,543
Income from operations	\$ 221	\$ 611	\$ 191	\$ 691	\$ 674
Interest expense	\$ (218)	\$ (197)	\$ (168)	\$ (163)	\$ (170)
Income tax expense (benefit)	\$ (53)	\$ (273)	\$ 73	\$ 242	\$ 92
Income (loss) from continuing operations attributable to NCR common stockholders	\$ (7)	\$ 614	\$ (36)	\$ 237	\$ 283
(Loss) income from discontinued operations, net of tax	\$ (72)	\$ (50)	\$ (52)	\$ (5)	\$ (13)
Basic earnings (loss) per common share attributable to NCR common stockholders:					
From continuing operations <sup>(a,d)</sup>	\$ (0.30)	\$ 4.13	\$ (0.72)	\$ 1.05	\$ 1.86
From discontinued operations	(0.56)	(0.41)	(0.44)	(0.04)	(0.10)
Total basic earnings (loss) per common share	\$ (0.86)	\$ 3.72	\$ (1.16)	\$ 1.01	\$ 1.76
Diluted earnings (loss) per common share attributable to NCR common stockholders: <sup>(b)</sup>					
From continuing operations <sup>(a,d)</sup>	\$ (0.30)	\$ 3.71	\$ (0.72)	\$ 1.01	\$ 1.80
From discontinued operations	(0.56)	(0.35)	(0.44)	(0.04)	(0.09)
Total diluted earnings (loss) per common share	\$ (0.86)	\$ 3.36	\$ (1.16)	\$ 0.97	\$ 1.71
Cash dividends per share	\$ —	\$ —	\$ —	\$ —	\$ —
<b>As of December 31</b>					
Total assets <sup>(c)</sup>	\$ 8,414	\$ 8,987	\$ 7,761	\$ 7,654	\$ 7,673
Total debt	\$ 3,278	\$ 3,559	\$ 3,165	\$ 2,991	\$ 3,051
Series A convertible preferred stock	\$ 273	\$ 395	\$ 859	\$ 810	\$ 847
Total NCR stockholders' equity	\$ 1,048	\$ 1,104	\$ 395	\$ 719	\$ 695
Number of employees and contractors	36,000	36,000	34,000	34,000	33,500

(a) Continuing operations excludes the costs and insurance recoveries relating to certain environmental obligations associated with discontinued operations, including those relating to the Fox River, Kalamazoo River and Ebina matters.

(b) See Note 1, "Basis of Presentation and Significant Accounting Policies" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report for further discussion of the diluted earnings (loss) per common share attributable to NCR common stockholders from continuing operations, discontinued operations and total.

(c) Total assets increased in 2019 for the adoption of the new lease standard.

(d) The following income (expense) amounts, net of tax are included in income from continuing operations attributable to NCR for the years ended December 31:

<b>In millions</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>
Pension mark-to-market adjustments	\$ (29)	\$ (66)	\$ 44	\$ (25)	\$ (78)
Transformation and restructuring costs	(190)	(44)	(182)	(20)	(21)
Acquisition-related amortization of intangibles	(64)	(68)	(68)	(79)	(83)
Acquisition-related gain (costs)	6	(5)	(5)	(3)	(5)
Debt refinancing costs	(15)	(5)	—	—	—
Valuation allowances and other tax adjustments	43	78	—	—	—
Internal reorganization and intellectual property transfer	—	301	—	—	—
U.S Tax reform and other valuation allowances	—	—	(45)	(130)	—
Goodwill and long-lived asset impairment charges	—	—	(174)	—	—
Divestiture and liquidation losses	—	—	—	—	(5)
<b>Total</b>	<b>\$ (249)</b>	<b>\$ 191</b>	<b>\$ (430)</b>	<b>\$ (257)</b>	<b>\$ (192)</b>

**Index to Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A)**

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## Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (MD&A)

*This section should be read in conjunction with the audited Consolidated Financial Statements and related Notes included in Item 8 of Part II of this Report. Management's Discussion and Analysis of Financial Condition and Results of Operations contains forward-looking statements. See "Forward-Looking Statements" and "Risk Factors" in Item 1A of this Annual Report for a discussion of the uncertainties, risks and assumptions associated with these forward-looking statements that could cause future results to differ materially from those reflected in this section.*

Our discussion within MD&A is organized as follows:

- *Overview.* This section contains background information on our company, summary of significant themes and events during the year as well as strategic initiatives and trends in order to provide context for management's discussion and analysis of our financial condition and results of operations.
- *Results of operations.* This section contains an analysis of our results of operations presented in the accompanying consolidated statements of income by comparing the results for the year ended December 31, 2020 to the results for the year ended December 31, 2019 and by comparing the results for the year ended December 31, 2019 to the results for the year ended December 31, 2018.
- *Liquidity and capital resources.* This section provides an analysis of our cash flows and a discussion of our contractual obligations at December 31, 2020.
- *Critical accounting policies and estimates.* This section contains a discussion of the accounting policies that we believe are important to our financial condition and results of operations and that require judgment and estimates on the part of management in their application. In addition, all of our significant accounting policies, including critical accounting policies, are summarized in Note 1, "Basis of Presentation and Significant Accounting Policies" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report.

## OVERVIEW

### *BUSINESS OVERVIEW*

NCR is a leading software- and services-led enterprise provider in the financial, retail, hospitality, and telecommunications and technology industries (T&T). NCR is a global company that is headquartered in Atlanta, Georgia. NCR offers a range of solutions that help businesses of all sizes run the store, run the restaurant and run self-service banking channels. Our solutions are also designed to support our transition to an as-a-Service company and enable us to be the technology-based service provider of choice to our customers. We categorize our operations into the following segments: Banking, Retail, Hospitality, and T&T. Each of our segments derives its revenue in each of the sales theaters in which NCR operates.

- **Banking** - We offer solutions to customers in the financial services industry that power their digital transformation through software, services and hardware to deliver differentiated experiences for their customers and improve efficiency for the financial institution. Our managed services and ATM-as-a-Service help banks run their end-to-end ATM channel, positioning NCR as a strategic partner. We augment these solutions by offering a full line of software, services and hardware including interactive teller machines (ITM), and recycling, multi-function and cash dispense ATMs. NCR's digital banking solutions enable anytime-anywhere convenience for a financial institution's consumer and business customers. We also help institutions implement their digital first platform strategy by providing solutions for banking channel services, transaction processing, imaging, and branch services.
- **Retail** - We offer software-defined solutions to customers in the retail industry, leading with digital to connect retail operations end to end to integrate all aspects of a customer's operations in indoor and outdoor settings from POS, to payments, inventory management, fraud and loss prevention applications, loyalty and consumer engagement. These solutions are designed to improve operational efficiency, selling productivity, customer satisfaction and purchasing decisions; provide secure checkout processes and payment systems; and increase service levels. These solutions include retail-oriented technologies such as comprehensive API-point of sale retail software platforms and applications, hardware terminals, self-service kiosks including self-checkout (SCO), payment processing solutions, and bar-code scanners.

- **Hospitality** - We offer technology solutions to customers in the hospitality industry, including table-service, quick-service and fast casual restaurants of all sizes, that are designed to improve operational efficiency, increase customer satisfaction, streamline order and transaction processing and reduce operating costs. Our portfolio includes cloud-based software applications for point-of-sale, back office, payment processing, kitchen production, restaurant management and consumer engagement. We also provide hospitality-oriented hardware products such as POS terminals, order and payment kiosks, bar code scanners, printers and peripherals. And finally, we help reduce the complexities of running the restaurant through our services capabilities including strategic advisory, technology deployment and implementation, hardware and software maintenance and managed services.
- **T&T** - We offer maintenance, managed and professional services using solutions such as remote management and monitoring services, which are designed to improve operational efficiency, network availability and end-user experience, to customers in the telecommunications and technology industry. We also provide such services to end users on behalf of select manufacturers leveraging our global service capability, and resell third party networking products to customers in a variety of industries.

NCR's reputation is founded upon over 136 years of providing quality products, services and solutions to our customers. At the heart of our customer and other business relationships is a commitment to acting responsibly, ethically and with the highest level of integrity. This commitment is reflected in NCR's Code of Conduct, which is available on the Corporate Governance page of our website.

#### ***SIGNIFICANT THEMES AND EVENTS***

As more fully discussed in later sections of this MD&A, the following were significant themes and events for 2020.

- Revenue decreased 10% from the prior year due to COVID-19 and shift to recurring revenue;
  - Software and services revenue represented 72% of total consolidated revenue
  - Recurring revenue increased 5% from the prior year and comprised 54% of total consolidated revenue
- Completed several transactions that reduced leverage; and
  - Redeemed notes due in 2022 and 2023 for \$1.3 billion and completed new bond offering for 8-yr and 10-yr notes for \$1.1 billion, which extended the weighted average debt maturity and reduced interest expense
  - Completed the redemption of approximately 132,000 shares of the Series A Convertible Preferred Stock
- Announced proposed transaction with Cardtronics plc.

#### ***STRATEGIC INITIATIVES AND TRENDS***

In order to provide long-term value to all of our stakeholders, we set complementary business goals and financial strategies. Our business goal is to be a software and services-led company, and to be the leading technology provider of choice that runs stores, banks and restaurants around the world through our NCR-as-a-Service solutions that help banks, stores and restaurants run better, so they have more time to create customer experiences that drive lasting success. Our financial strategy is to transition our revenue mix so that 80 percent of our total revenue is comprised of software and services revenue, 60 percent of our total revenue is comprised of recurring revenue, and our adjusted EBITDA margin rate increases to 20 percent. Execution of our goals and strategy is driven by the following key pillars: (i) focus on our customers; (ii) take care of our employees; (iii) bring high-quality, innovative products to market; and (iv) leverage our brand.

#### ***Cybersecurity Risk Management***

Similar to most companies, NCR and its customers are subject to more frequent and increasingly sophisticated cybersecurity attacks. The Company maintains cybersecurity risk management policies and procedures including disclosure controls, which it regularly evaluates for updates, for handling and responding to cybersecurity events. These policies and procedures include internal notifications and engagements and, as necessary, cooperation with law enforcement. Personnel involved in handling and responding to cybersecurity events periodically undertake tabletop exercises to simulate an event. Our internal notification procedures include notifying the applicable Company attorneys, which, depending on the level of severity assigned to the event, may include direct notice to, among others, the Company's General Counsel, Ethics & Compliance Officer, and Chief Privacy Officer. Company attorneys support efforts to evaluate the materiality of any incidents, determine whether notice to third parties such as customers or vendors is required, determine whether any prohibition on insider trading is appropriate, and assess whether disclosure to stockholders or governmental filings, including with the SEC, are required. Our internal notification procedures also include notifying various NCR Information Technology Services managers, subject matter experts in the Company's software department and Company leadership, depending on the level of severity assigned to the event.

For further information on potential risks and uncertainties see Item 1A "Risk Factors."

### ***IMPACTS FROM THE COVID-19 PANDEMIC***

The impact of COVID-19, including several emerging variants of COVID-19, has grown throughout the world. Governmental authorities have implemented numerous measures attempting to contain and mitigate the effects of COVID-19, including travel bans and restrictions, quarantines, shelter in place orders and shutdowns.

We continue to actively monitor the global outbreak and spread of COVID-19 and take steps to mitigate the potential risks to us posed by its spread and related circumstances and impacts. We continue to assess and update our business continuity plan in the context of this pandemic. We have taken precautions to help keep our workforce healthy and safe, including establishing a coronavirus task force in January 2020, thermal screening procedures at our manufacturing plants and call centers and remote working arrangements for the vast majority of our back-office employees. We expect the pandemic to create headwinds to our customers and our business until COVID-19 is contained, consumer confidence improves and the economic conditions rebound. Although it is difficult to project with certainty how deep and how long the COVID-19 pandemic will last, we do expect it will negatively impact our business into 2021.

With respect to our Banking segment, we worked with local governments to make sure that these businesses are designated as essential critical infrastructure businesses. Although we experienced installation delays and lower hardware revenue, we have not experienced any significant impact to our recurring revenue streams. We believe our ATM break-fix services, which represented the largest percentage of Banking segment revenue, has remained strong, although there can be no assurance that such operations will not be impacted in the future with higher costs or labor availability.

With respect to our Retail segment, the food, drug and mass merchandising market, which includes grocery stores, drug stores and big box retailers, and which represented the majority of our Retail segment revenue, is currently designated as an essential critical infrastructure business in many jurisdictions. We realigned our resources to support our customers as they have responded to changing consumer demand, particularly with regard to self-checkout and contactless checkout. However, customers in our department and specialty retail market and in our small and medium business market, have encountered significant adverse impacts in connection with COVID-19 as a result of temporary closures of physical stores and reduced consumer spending.

With respect to our Hospitality segment, the quick service restaurants, which are large chains and represent the majority of the Hospitality segment revenue, have remained busy with respect to drive-through and pick up services being in demand as many in-restaurant dining options have been limited by social distancing and governmental orders. However, this market has been negatively impacted from lower new stores and less remodeling activity. Table service restaurants, which are sit-down restaurants with more than 50 locations, have experienced negative impacts as a result of governmental and public actions. Although many of these businesses have experienced an increase in online and takeout ordering, this market will continue to be negatively impacted until consumer confidence improves once COVID-19 is contained. Customers in our small and medium business market have experienced significant working capital and adverse cash flow impacts as a result of the COVID-19 pandemic, which, similar to table service restaurants, is expected to continue until COVID-19 is contained and the economy begins to rebound.

In order to build a stronger liquidity position, we took steps to improve working capital and addressed certain business impacts with spending cuts. We took several steps to build our cash reserve to improve our financial liquidity and flexibility and provide a cushion to help weather the impacts of the pandemic. These steps included suspending our share repurchase programs, limiting our mergers and acquisition activity, reducing salaries for members of our leadership team and certain salaried employees, reducing our planned capital expenditures, eliminating most contractors, curtailing travel, and freezing merit increases and hiring. Late in the third quarter, we released some of the temporary measures, mainly related to the temporary salary reductions which were replaced with permanent measures focused on organizational improvements, operational changes and strategic product actions.

However, the degree to which COVID-19 affects our financial results and operations will depend on future developments, which are highly uncertain and cannot be predicted with certainty, including, but not limited to, the duration and spread of the outbreak, its severity, the actions to contain the virus or treat its impact, including but not limited to, the success and distribution of existing and additional vaccinations, and how quickly and to what extent normal economic and operating conditions can resume.

While it is difficult to project how disruptive and protracted the pandemic will be, we do expect it will negatively impact our business into 2021. We expect all of our segment results to be negatively impacted by the COVID-19 pandemic. We expect our hardware revenues to be most impacted while our recurring revenue stream is expected to be more resilient. We continue to

evaluate the long-term impact that COVID-19 may have on our business model, which may result in additional cash and non-cash charges in 2021.

## RESULTS OF OPERATIONS

### Key Strategic Financial Metrics

The following tables show our key strategic financial metrics for the years ended December 31, the relative percentage that those amounts represent to total revenue, and the change in those amounts year-over-year.

#### Software and services revenue as a percentage of total revenue

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Software & Services	\$ 4,452	\$ 4,528	\$ 4,372	71.7 %	65.5 %	68.3 %	(2)%	4 %
Hardware	\$ 1,755	\$ 2,387	\$ 2,033	28.3 %	34.5 %	31.7 %	(26)%	17 %
<b>Total Revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>(10)%</b>	<b>8 %</b>

#### Recurring revenue as a percentage of total revenue

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Recurring revenue <sup>(1)</sup>	\$ 3,338	\$ 3,182	\$ 2,970	53.8 %	46.0 %	46.4 %	5 %	7 %
All other products and services	\$ 2,869	\$ 3,733	\$ 3,435	46.2 %	54.0 %	53.6 %	(23)%	9 %
<b>Total Revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>(10)%</b>	<b>8 %</b>

<sup>(1)</sup> Recurring revenue includes all revenue streams from contracts where there is a predictable revenue pattern that will occur at regular intervals with a relatively high degree of certainty. This includes hardware and software maintenance revenue, cloud revenue, payment processing revenue, and certain professional services arrangements as well as term-based software license arrangements that include customer termination rights.

#### Net income (loss) from continuing operation and Adjusted EBITDA <sup>(2)</sup> as a percentage of total revenue

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Total Revenue	\$ 6,207	\$ 6,915	\$ 6,405					
Net income (loss) from continuing operations	\$ (7)	\$ 614	\$ (36)	(0.1)%	8.9 %	(0.6)%	(101)%	n/m
Adjusted EBITDA <sup>(1)</sup>	\$ 896	\$ 1,058	\$ 957	14.4 %	15.3 %	14.9 %	(15)%	11 %

n/m = not meaningful

<sup>(1)</sup> NCR's management uses the non-GAAP measure Adjusted EBITDA because it provides useful information to investors as an indicator of strength and performance of the Company's ongoing business operations, including funding discretionary spending such as capital expenditures, strategic acquisitions, and other investments. NCR determines Adjusted EBITDA based on GAAP net income (loss) from continuing operations attributable to NCR plus interest expense, net; plus income tax expense (benefit); plus depreciation and amortization; plus other income (expense); plus pension mark-to-market adjustments, pension settlements, pension curtailments and pension special termination benefits and other special items, including amortization of acquisition-related intangibles, restructuring charges, among others. Refer to the table below for the reconciliations of net income (loss) from continuing operations (GAAP) to Adjusted EBITDA (non-GAAP).

In millions	2020	2019	2018
<b>Net income (loss) from continuing operations (GAAP)</b>	\$ (7)	\$ 614	\$ (36)
Pension mark-to-market adjustments	34	75	(45)
Transformation and restructuring costs	234	58	223
Acquisition-related amortization of intangibles	81	86	85
Acquisition-related (gains) costs	(6)	3	6
Long-lived and intangible asset impairment charges	—	—	183
Internal reorganization and IP transfer	—	(37)	—
Loss on debt extinguishment	20	—	—
Interest expense	218	197	168
Interest income	(8)	(4)	(5)
Depreciation and amortization	275	232	241
Income taxes	(53)	(273)	73
Stock-based compensation expense	108	107	64
<b>Adjusted EBITDA (non-GAAP)</b>	<b>896</b>	<b>\$ 1,058</b>	<b>\$ 957</b>

## Consolidated Results

The following table shows our results for the years December 31, the relative percentage that those amounts represent to revenue, and the change in those amounts year-over-year.

(in millions)				Percentage of Revenue <sup>(1)</sup>			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Product revenue	\$ 2,005	\$ 2,681	\$ 2,341	32.3 %	38.8 %	36.5 %	(25)%	15 %
Service revenue	4,202	4,234	4,064	67.7 %	61.2 %	63.5 %	(1)%	4 %
<b>Total revenue</b>	<b>6,207</b>	<b>6,915</b>	<b>6,405</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>(10)%</b>	<b>8 %</b>
Product gross margin	272	535	353	13.6 %	20.0 %	15.1 %	(49)%	52 %
Service gross margin	1,252	1,386	1,322	29.8 %	32.7 %	32.5 %	(10)%	5 %
<b>Total gross margin</b>	<b>1,524</b>	<b>1,921</b>	<b>1,675</b>	<b>24.6 %</b>	<b>27.8 %</b>	<b>26.2 %</b>	<b>(21)%</b>	<b>15 %</b>
Selling, general and administrative expenses	1,051	1,051	1,005	16.9 %	15.2 %	15.7 %	— %	5 %
Research and development expenses	234	259	252	3.8 %	3.7 %	3.9 %	(10)%	3 %
Asset impairment charges	18	—	227	0.3 %	— %	3.5 %	100 %	(100)%
<b>Total operating expenses</b>	<b>1,303</b>	<b>1,310</b>	<b>1,484</b>	<b>21.0 %</b>	<b>18.9 %</b>	<b>23.2 %</b>	<b>(1)%</b>	<b>(12)%</b>
<b>Income from operations</b>	<b>\$ 221</b>	<b>\$ 611</b>	<b>\$ 191</b>	<b>3.6 %</b>	<b>8.8 %</b>	<b>3.0 %</b>	<b>(64)%</b>	<b>220 %</b>

<sup>(1)</sup> The percentage of revenue is calculated for each line item divided by total revenue, except for product gross margin, service gross margin and total gross margin, which are divided by the related component of revenue.

## Revenue

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Product revenue	\$ 2,005	\$ 2,681	\$ 2,341	32.3 %	38.8 %	36.5 %	(25)%	15 %
Service revenue	4,202	4,234	4,064	67.7 %	61.2 %	63.5 %	(1)%	4 %
<b>Total revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>(10)%</b>	<b>8 %</b>

Product revenue includes our hardware and software license revenue streams. Service revenue includes hardware and software maintenance revenue, implementation services revenue, cloud revenue as well as professional services revenue.

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Total revenue decreased 10% in 2020 from 2019. The COVID-19 pandemic had a significant impact to revenue, mainly impacting product revenue. Product revenue declined 25% due to a 29% decline in ATM revenue as well as a 23% decline in SCO and POS revenue. Additionally, product revenue was impacted by the shift from selling perpetual software licenses to recurring revenue that lowered revenue by approximately \$100 million. Service revenue declined 1% due to the impact from the COVID-19 pandemic, which was partially offset by an increase in hardware maintenance revenue.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Total revenue increased 8% in 2019 from 2018 due to increases in both product and service revenue. Product revenue increased 15% due to a 29% increase in ATM revenue as well as a 7% increase in SCO and POS revenue. Service revenue increased 4% due to growth in recurring revenue streams, mainly in cloud revenue and managed services, as well as growth in professional services.

## Gross Margin

(in millions)				Percentage of Revenue <sup>(1)</sup>			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Product gross margin	\$ 272	\$ 535	\$ 353	13.6 %	20.0 %	15.1 %	(49)%	52 %
Service gross margin	1,252	1,386	1,322	29.8 %	32.7 %	32.5 %	(10)%	5 %
<b>Total gross margin</b>	<b>\$ 1,524</b>	<b>\$ 1,921</b>	<b>\$ 1,675</b>	<b>24.6 %</b>	<b>27.8 %</b>	<b>26.2 %</b>	<b>(21)%</b>	<b>15 %</b>

<sup>(1)</sup> The percentage of revenue is calculated for each line item divided by the related component of revenue.

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Gross margin as a percentage of revenue was 24.6% in 2020 compared to 27.8% in 2019. Gross margin for the year ended December 31, 2020 included \$150 million related to transformation and restructuring costs and \$22 million related to amortization of acquisition-related intangible assets. Gross margin for the year ended December 31, 2019 included \$21 million related to transformation and restructuring costs and \$24 million related to amortization of acquisition-related intangible assets. Excluding these items, gross margin as a percentage of revenue decreased from 28.4% to 27.3% due to lower revenue impacted by the COVID-19 pandemic as well as from the shift to recurring revenue with lower software license revenue.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Gross margin as a percentage of revenue was 27.8% in 2019 compared to 26.2% in 2018. Gross margin for the year ended December 31, 2019 included \$21 million related to transformation and restructuring costs and \$24 million related to amortization of acquisition-related intangible assets. Gross margin for the year ended December 31, 2018 included \$102 million related to transformation and restructuring costs and \$23 million related to amortization of acquisition-related intangible assets. Excluding these items, gross margin as a percentage of revenue increased from 28.1% to 28.4% due to growth in the Banking and Retail segments primarily driven by improved hardware profitability partially offset by declines in the Hospitality segment.

## Selling, General and Administrative Expenses

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Selling, general and administrative expenses	\$ 1,051	\$ 1,051	\$ 1,005	16.9 %	15.2 %	15.7 %	— %	5 %

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Selling, general, and administrative expenses were \$1,051 million in 2020 flat with 2019. As a percentage of revenue, selling, general and administrative expenses were 16.9% in 2020 and 15.2% in 2019. In 2020, selling, general and administrative expenses included \$48 million of transformation costs, \$59 million of acquisition-related amortization of intangibles and \$1 million of acquisition-related costs. In 2019, selling, general and administrative expenses included \$31 million of transformation and restructuring costs, \$62 million of acquisition-related amortization of intangibles and \$3 million of acquisition-related costs. Excluding these items, selling, general and administrative expenses increased as a percentage of revenue from 13.8% in 2019 to 15.2% in 2020 primarily due to the decline in revenue. Early in the year, the Company took actions to address the business impacts from the COVID-19 pandemic, including among others, salary reductions, elimination of certain contractors and curtailing travel, which, after excluding the items noted above, reduced selling, general and administrative expenses in 2020.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Selling, general, and administrative expenses were \$1,051 million in 2019, up from \$1,005 million in 2018. As a percentage of revenue, these expenses were 15.2% in 2019 and 15.7% in 2018. In 2019, selling, general, and administrative expenses included \$31 million of transformation and restructuring costs, \$62 million of acquisition-related amortization of intangibles and \$3 million of acquisition-related costs. In 2018, selling, general, and administrative expenses included \$67 million of transformation and restructuring costs, \$62 million of amortization of acquisition-related intangible assets and \$6 million of acquisition-related costs. Excluding these items, selling, general and administrative expenses increased as a percentage of revenue from 13.6% in 2018 to 13.8% in 2019 due to increases in employee-related and real estate expenses.

### Research and Development Expenses

(in millions)				Percentage of Total Revenue			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
Research and development expenses	\$ 234	\$ 259	\$ 252	3.8 %	3.7 %	3.9 %	(10)%	3 %

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Research and development expenses were \$234 million in 2020, down from \$259 million in 2019. As a percentage of revenue, these costs were 3.8% in 2020 and 3.7% in 2019. In 2020, research and development expenses included \$11 million of costs related to our transformation and restructuring costs. In 2019, research and development expenses included \$6 million of transformation and restructuring costs. After considering this item, research and development expenses decreased slightly as a percentage of revenue from 3.7% in 2019 to 3.6% in 2020 due to the initiatives implemented earlier in the year to address the business impacts from the COVID-19 pandemic, including among others, salary reductions, elimination of certain contractors and curtailing travel as well as increased investment in our strategic growth platforms.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Research and development expenses were \$259 million in 2019, up from \$252 million in 2018. As a percentage of revenue, these costs were 3.7% in 2019 and 3.9% in 2018. In 2019, research and development expenses included \$6 million of transformation and restructuring costs. In 2018, research and development expenses included \$10 million of transformation costs. After considering this item, research and development expenses decreased slightly as a percentage of revenue from 3.8% in 2018 to 3.7% in 2019 due to increased discipline for investments in our strategic growth platforms.

### Asset Impairment Charges

(in millions)				Increase (Decrease)	
	2020	2019	2018	2020 v 2019	2019 v 2018
Asset impairment charges	\$ 18	\$ —	\$ 227	100 %	(100)%

In 2020, asset impairment charges were \$18 million for the write-off of certain internal use software capitalization projects that were no longer considered strategic and as a result, the projects have been abandoned.

In 2018, asset impairment charges were \$227 million which included a \$146 million impairment of goodwill under our previous segment structure, which was assigned to the Hardware reporting unit and a \$37 million impairment charge related to long-lived assets held and used in our Hardware operations. Refer to Note 2, "Goodwill and Purchased Intangible Assets" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report for additional discussion. Additionally, in 2018, we recorded \$44 million for the write-off of certain internal and external use software capitalization projects that were no longer considered strategic based on review by the new management team and as a result, the projects have been abandoned.

### Loss on Extinguishment of Debt

(in millions)				Increase (Decrease)	
	2020	2019	2018	2020 v 2019	2019 v 2018
Loss on extinguishment of debt	\$ 20	\$ —	\$ —	100 %	— %

Loss on extinguishment of debt was \$20 million in 2020 related to the early extinguishment of the \$600 million aggregate principal amount of 5.00% senior unsecured notes due in 2022 and the \$700 million aggregate principal amount of 6.375% senior unsecured notes due in 2023. The loss included the write-off of deferred financing fees of \$5 million and a cash redemption premium of \$15 million.

### Interest Expense

(in millions)				Increase (Decrease)	
	2020	2019	2018	2020 v 2019	2019 v 2018
Interest expense	\$ 218	\$ 197	\$ 168	11 %	17 %

Interest expense was \$218 million in 2020 compared to \$197 million in 2019 and \$168 million in 2018. Interest expense in all years was primarily related to the Company's senior unsecured notes and borrowings under the Company's senior secured credit facility. Early in 2020, the Company took steps to build our cash position by fully drawing the revolving credit facility and issuing \$400 million senior unsecured notes as a precautionary measure given the uncertainty of the COVID-19 pandemic. As a result, the higher average outstanding principal balances during 2020 as well as higher average interest rates on the Company's senior unsecured notes increased interest expense in 2020 compared to 2019.

### Other Income (Expense), net

Other income (expense), net was expense of \$42 million in 2020, expense of \$73 million in 2019 and income of \$16 million in 2018, with the components reflected in the following table:

In millions	2020	2019	2018
Interest income	\$ 8	\$ 5	\$ 5
Foreign currency fluctuations and foreign exchange contracts	(14)	(23)	(26)
Bank-related fees	(5)	(7)	(8)
Employee benefit plans	(31)	(82)	45
Gain on entity liquidations	—	37	—
Impairment of an equity investment	(7)	—	—
Bargain purchase gain on acquisition	7	—	—
Other, net	—	(3)	—
Other income (expense), net	\$ (42)	\$ (73)	\$ 16



Employee benefit plans within other income (expense) net includes the components of pension, postemployment and postretirement expense, other than service cost. This includes actuarial gains and losses from the annual pension mark-to-market adjustment. In 2020, there were actuarial losses of \$34 million compared to actuarial losses of \$75 million in 2019 and actuarial gains of \$45 million in 2018. Actuarial losses in 2020 and 2019 were primarily due to a decrease in the discount rates. Actuarial gains in 2018 were due to an increase in discount rates as well as a favorable impact from a mortality update in the United Kingdom.

## Income Taxes

(in millions)	2020	2019	2018	Increase (Decrease)	
				2020 v 2019	2019 v 2018
Income tax expense (benefit)	\$ (53)	\$ (273)	\$ 73	(81)%	(474)%

Our effective tax rate was 90% in 2020, (80)% in 2019, and 187% in 2018. During 2020, our tax rate was impacted by a \$48 million benefit for the release of a valuation allowance against U.S. foreign tax credits and the re-establishment of expected foreign tax credit offsets to unrecognized tax benefits. During 2019, our tax rate was impacted by the transfer of certain intangible assets among our wholly-owned subsidiaries, creating a net tax benefit of \$264 million. The tax rate was also impacted by foreign valuation allowance releases of \$74 million. During 2018, our tax rate was impacted by lower income before tax as well as a \$37 million expense related to the impact of the Tax Cuts and Jobs Act of 2017.

In the first quarter of 2020, the Company identified and recorded income tax benefits of \$5 million related to an error in the calculation of the permanent differences on executive stock compensation and the write-off of income tax payables incorrectly recorded in prior periods. In the fourth quarter of 2020, the Company identified and recorded income tax expense to correct for errors which originated in prior periods totaling \$10 million, which included \$6 million related to an error in the calculation of the provision for unrecognized tax benefits. The Company corrected for these immaterial errors as out of period adjustments in the period identified which resulted in a net \$5 million out of period adjustment for the year ended December 31, 2020.

While we are subject to numerous federal, state and foreign tax audits, we believe that appropriate reserves exist for issues that might arise from these audits. Should these audits be settled, the resulting tax effect could impact the tax provision and cash flows in future periods. During 2021, the Company expects to resolve certain tax matters related to U.S. and foreign jurisdictions. These resolutions could have a material impact on the effective tax rate in 2021.

We regularly review our deferred tax assets for recoverability and establish a valuation allowance if it is more likely than not that some portion or all of a deferred tax asset will not be realized. The determination as to whether a deferred tax asset will be realized is made on a jurisdictional basis and is based on the evaluation of positive and negative evidence. This evidence includes historical taxable income/loss, projected future taxable income, the expected timing of the reversal of existing temporary differences and the implementation of tax planning strategies.

## Loss from Discontinued Operations, net of tax

(in millions)	2020	2019	2018	Increase (Decrease)	
				2020 v 2019	2019 v 2018
Income (loss) from discontinued operations, net of tax	\$ (72)	\$ (50)	\$ (52)	44 %	(4)%

In 2020, the loss from discontinued operations was \$72 million, net of tax, primarily related to updates in estimates and assumptions for the Fox River and Kalamazoo River environmental reserves.

In 2019, the loss from discontinued operations was \$50 million, net of tax, primarily related to updates in estimates and assumptions for the Fox River environmental reserve, a settlement agreement entered into related to the Kalamazoo River environmental matter as well as anticipated future disposal costs related to an environmental matter in Japan.

In 2018, the loss from discontinued operations was \$52 million, net of tax, primarily related to updates in estimates and assumptions for the Fox River environmental reserve, a ruling on the Kalamazoo River environmental matter as well as audit settlements partially related to Teradata.

## Revenue and Operating Income by Segment

The Company manages and reports its businesses in the following segments: Banking, Retail, Hospitality and T&T. Each of these segments derives its revenue by selling in the sales theaters in which NCR operates. Segments are measured for profitability by the Company's chief operating decision maker based on revenue and segment operating income. For purposes of discussing our operating results by segment, we exclude the impact of certain non-operational items from segment operating income, consistent with the manner by which management reviews each segment, evaluates performance, and reports our segment results under GAAP. This format is useful to investors because it allows analysis and comparability of operating trends. It also includes the same information that is used by NCR management to make decisions regarding the segments and to assess our financial performance.

The following table shows our segment revenue and operating income for the years December 31, the relative percentage that those amounts represent to revenue, and the change in those amounts year-over-year.

(in millions)				Percentage of Revenue <sup>(1)</sup>			Increase (Decrease)	
	2020	2019	2018	2020	2019	2018	2020 v 2019	2019 v 2018
<b>Revenue</b>								
Banking	\$ 3,098	\$ 3,512	\$ 3,183	49.9 %	50.8 %	49.7 %	(12)%	10 %
Retail	2,080	2,217	2,097	33.5 %	32.0 %	32.7 %	(6)%	6 %
Hospitality	684	843	817	11.0 %	12.2 %	12.8 %	(19)%	3 %
T&T	345	343	308	5.6 %	5.0 %	4.8 %	1 %	11 %
<b>Total Revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>100.0 %</b>	<b>(10)%</b>	<b>8 %</b>
<b>Segment operating income</b>								
Banking	\$ 381	\$ 514	\$ 412	12.3 %	14.6 %	12.9 %	(26)%	25 %
Retail	116	144	142	5.6 %	6.5 %	6.8 %	(19)%	1 %
Hospitality	7	56	85	1.0 %	6.6 %	10.4 %	(88)%	(34)%
T&T	26	44	49	7.5 %	12.8 %	15.9 %	(41)%	(10)%
<b>Segment operating income</b>	<b>\$ 530</b>	<b>\$ 758</b>	<b>\$ 688</b>	<b>8.5 %</b>	<b>11.0 %</b>	<b>10.7 %</b>	<b>(30)%</b>	<b>10 %</b>
Other adjustments <sup>(2)</sup>	309	147	497					
<b>Income (loss) from operations</b>	<b>\$ 221</b>	<b>\$ 611</b>	<b>\$ 191</b>					

<sup>(1)</sup> For segment revenue, the percentage of revenue is calculated for each line item divided by total revenue. For segment operating income, the percentage of revenue is calculated for each line item divided by the related segment revenue amount.

<sup>(2)</sup> The following table presents the other adjustments for NCR for the years ended December 31:

In millions	2020	2019	2018
Transformation and restructuring costs	\$ 227	\$ 58	\$ 223
Acquisition-related amortization of intangibles	81	86	85
Acquisition-related costs	1	3	6
Asset impairment charges	—	—	183
<b>Total other adjustments</b>	<b>\$ 309</b>	<b>\$ 147</b>	<b>\$ 497</b>

## Segment Revenue

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Banking revenue decreased 12% due the COVID-19 pandemic driven by a 29% decline in ATM hardware revenue as well as the shift from selling perpetual software licenses to recurring revenue which lowered revenue by approximately \$74 million. Recurring revenue increased 6% driven by the increase in term-based software licenses, cloud revenue and maintenance services.

Retail revenue decreased 6% driven by a decrease in SCO and POS hardware revenue as well as the shift from selling perpetual software licenses to recurring revenue which lowered revenue by approximately \$10 million. Recurring revenue increased 8% driven by the increase in professional and maintenance services.

Hospitality revenue decreased 19% due to the impact from the COVID-19 pandemic driven by a decrease in POS hardware revenue as well as the shift from selling perpetual software licenses to recurring revenue which lowered revenue by approximately \$16 million. Recurring revenue decreased 3% driven by the decrease in cloud revenue due to the impact from the COVID-19 pandemic.

T&T revenue increased 1% in 2020 compared to 2019 driven by an increase in services revenue.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Banking revenue increased 10% due to a 29% increase in ATM revenue driven by higher backlog conversion and higher ATM-related software as well as growth in services revenue. Retail revenue increased 6% driven by an increase in payments, strength in SCO and services revenue. Hospitality revenue increased 3% driven by higher cloud, payments, and POS revenue. T&T revenue increased 11% driven by an increase in services revenue.

## **Segment Operating Income**

*For the year ended December 31, 2020 compared to the year ended December 31, 2019*

Banking, Retail and Hospitality operating income decreased in 2020 compared to 2019 primarily driven by lower hardware revenue partially offset by cost saving initiatives implemented in 2020. T&T operating income decreased in 2020 compared to 2019 driven by unfavorable mix of revenue.

*For the year ended December 31, 2019 compared to the year ended December 31, 2018*

Banking operating income increased in 2019 compared to 2018 primarily driven by higher volume and a favorable mix of revenue with improved hardware profitability. Retail operating income slightly increased in 2019 compared to 2018 primarily due to higher software and services revenue and improved hardware profitability. Hospitality operating income decreased in 2019 compared to 2018 driven by several large installations in the prior year, an unfavorable mix of revenue as well as increased investment in product support and payments. T&T operating income decreased in 2019 compared to 2018 driven by an unfavorable mix of revenue partially offset by the increase in revenue.

## **FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES**

In the year ended December 31, 2020, cash provided by operating activities was \$641 million and in the year ended December 31, 2019 cash provided by operating activities was \$634 million. The increase was due working capital improvements partially offset by lower earnings.

NCR's management uses a non-GAAP measure called "free cash flow" to assess the financial performance of the Company. We define free cash flow as net cash provided by (used in) operating activities and cash provided by (used in) discontinued operations, less capital expenditures for property, plant and equipment, less additions to capitalized software plus discretionary pension contributions and settlements (if any). Free cash flow does not have a uniform definition under GAAP, and therefore NCR's definition of this measure may differ from that of other companies. We believe free cash flow information is useful for investors because it relates the operating cash flows from the Company's continuing and discontinued operations to the capital that is spent and to improve business operations. In particular, free cash flow indicates the amount of cash available after capital expenditures for, among other things, investments in the Company's existing businesses, strategic acquisitions and investments, repurchase of NCR stock and repayment of debt obligations. Free cash flow does not represent the residual cash flow available for discretionary expenditures, since there may be other non-discretionary expenditures that are not deducted from the measure. This non-GAAP measure should not be considered a substitute for, or superior to, cash flows from operating activities under GAAP. The table below reconciles net cash provided by (used in) operating activities, the most directly comparable GAAP measure, to NCR's non-GAAP measure of free cash flow for the years ended December 31:

In millions	2020	2019	2018
Net cash provided by operating activities	\$641	\$634	\$572
Capital expenditures for property, plant and equipment	(31)	(91)	(143)
Additions to capitalized software	(232)	(238)	(170)
Net cash used in discontinued operations	—	(24)	(36)
Discretionary pension contribution	70	—	—
Free cash flow (non-GAAP)	<u>\$448</u>	<u>\$281</u>	<u>\$223</u>

During the year ended December 31, 2020, the Company revised its previously issued 2019 Statement of Cash Flows to correct for an error. The accompanying liquidity and capital resources reflects the impact of such revision. See Note 15, "Revisions of Previously Issued Financial Statements" of the Notes to the Consolidated Financial Statements in Item 8 of Part II of this Report.

In 2020, net cash provided by operating activities increased \$7 million, and net cash used in discontinued operations decreased \$24 million, which contributed to a net increase in free cash flow of \$167 million in comparison to 2019. Additionally, capital expenditures for property, plant and equipment decreased \$60 million primarily due to the initiatives implemented earlier in the year to address the business impacts from the COVID-19 pandemic. Additions to capitalized software decreased slightly \$6 million as the Company continued to focus on investment in our strategic growth platforms. The net cash used in discontinued operations in 2020 decreased \$24 million in comparison to 2019 primarily due to decreased remediation spend associated with the Fox River environmental matter in 2020.

In 2019, net cash provided by operating activities increased \$62 million, and net cash used in discontinued operations decreased \$12 million, which contributed to a net increase in free cash flow of \$58 million in comparison to 2018. Additionally, capital expenditures for property, plant and equipment decreased \$52 million primarily due to expenditures related to the new global headquarters in Atlanta, Georgia. Additions to capitalized software increased \$68 million due to continued investment in software solution enhancements. The net cash used in discontinued operations in 2019 decreased \$12 million in comparison to 2018 primarily due to increased remediation spend associated with the Fox River environmental matter in 2019.

Financing activities and certain other investing activities are not included in our calculation of free cash flow. Our other investing activities primarily include business acquisitions, and investments as well as proceeds from the sales of property, plant and equipment. During the year ended December 31, 2020, the payments for business combinations was \$25 million, mainly for the remaining consideration paid related to the acquisition of Zynstra Ltd. completed in 2019.

Our financing activities include borrowings and repayments of credit facilities and notes. During the year ended December 31, 2020, we issued new senior unsecured notes for an aggregate principal amount of \$1.5 billion and we paid \$21 million of deferred financing fees related to these transactions. Additionally, in the year ended December 31, 2020, we redeemed the \$600 million aggregate principal amount of 5.000% senior unsecured notes due in 2022 and \$700 million aggregate principal amount of 6.375% senior unsecured notes due in 2023. As a part of our debt extinguishment, we recognized a loss of \$20 million, which includes the write-off of deferred financing fees of \$5 million and a cash redemption premium of \$15 million.

During the year ended December 31, 2019, we amended and restated our senior secured credit facility which resulted in the repayment of the term loan under the prior facility of \$759 million and proceeds from the term loan under the new facility of \$750 million. Additionally, during the year ended December 31, 2019, we issued new senior unsecured notes for an aggregate principal amount of \$1 billion and redeemed in full the \$500 million aggregate principal amount of 4.625% senior unsecured notes and the \$400 million aggregate principal amount of 5.875% senior unsecured notes. In the year ended December 31, 2019, we paid \$32 million of debt issuance fees related to these transactions.

Financing activities during the year ended December 31, 2020 also included the redemption of the outstanding Series A Convertible Preferred Stock owned by two affiliated shareholders for a total cash consideration of \$144 million, the repurchase of our common stock for \$41 million, dividends paid on the Series A preferred stock of \$9 million, proceeds from stock employee plans of \$17 million as well as tax withholding payments on behalf of employees for stock based awards that vested of \$28 million. Financing activities during the year ended December 31, 2019 also included the redemption of the outstanding Series A Convertible Preferred Stock owned by Blackstone for \$302 million, the repurchase of our common stock for a total of \$96 million, proceeds from stock employee plans of \$16 million and tax withholding payments on behalf of employees for stock based awards that vested of \$29 million.

**Long Term Borrowings** On August 28, 2019, the Company entered into an amended and restated senior secured credit facility and refinanced the long term facility and revolving credit facility thereunder. The senior secured credit facility consisted of a term loan

facility with an aggregate principal commitment of \$750 million, of which \$741 million was outstanding as of December 31, 2020. Additionally, the senior secured credit facility provides for a five-year revolving credit facility with an aggregate principal amount of \$1.1 billion, of which \$75 million was outstanding as of December 31, 2020. Loans under the revolving credit facility are available in U.S. Dollars, Euros and Pound Sterling. The revolving credit facility also allows a portion of the availability to be used for letters of credit, and as of December 31, 2020, outstanding letters of credit were \$26 million.

As of December 31, 2020, we had outstanding \$400 million in aggregate principal balance of 8.125% senior unsecured notes due in 2025, \$500 million in aggregate principal balance of 5.750% senior unsecured notes due in 2027, \$650 million aggregate principal balance of 5.000% senior unsecured notes due in 2028, \$500 million in aggregate principal balance of 6.125% senior unsecured notes due in 2029 and \$450 million in aggregate principal balance of 5.250% senior unsecured notes due in 2030.

Our revolving trade receivables securitization facility provides the Company with up to \$300 million in funding based on the availability of eligible receivables and other customary factors and conditions. As of December 31, 2020, the Company had no balance outstanding under the facility.

See Note 5, "Debt Obligations" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report for further information on the senior secured credit facility (including certain amendments to such facility), the senior unsecured notes, the trade receivables securitization facility and our expected financing activities in connection with the proposed Cardtronics transaction.

**Employee Benefit Plans** We expect to make pension, postemployment and postretirement plan contributions of approximately \$66 million in 2021. See Note 8, "Employee Benefit Plans" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report for additional discussion on our pension, postemployment and postretirement plans.

**Transformation and Restructuring Initiatives** In the fourth quarter of 2020, as we continue to advance the Company's strategic initiatives, we implemented certain changes to drive sustained organizational efficiencies. As a result, we incurred pre-tax charges of \$202 million of which approximately \$155 million were non-cash charges related to excess inventory and software impairment charges. We also incurred approximately \$47 million in cash charges that are expected to drive \$150 million of savings in 2021. We continue to evaluate the long-term impact that the COVID-19 pandemic may have on our business model, which may result in additional cash and non-cash charges in 2021.

**Series A Convertible Preferred Stock** In 2015, NCR issued 820,000 shares of Series A Convertible Preferred Stock. As of December 31, 2020, there were approximately 300,000 shares that remained issued and outstanding. Holders of Series A Convertible Preferred Stock are entitled to a cumulative dividend at the rate of 5.5% per annum, which was payable quarterly in arrears and payable in-kind for the first sixteen dividend payments, after which, beginning in the first quarter of 2020, are payable in cash or in-kind at the option of the Company. The holders also have certain redemption rights or put rights, including the right to require us to repurchase all or any portion of the Series A Convertible Preferred Stock on any date during the three months commencing on and immediately following March 16, 2024 and the three months commencing on and immediately following every third anniversary of such date, at 100% of the liquidation preference plus all accrued but unpaid dividends.

Additionally, the Series A Convertible Preferred Stock is convertible at the option of the holders at any time into shares of common stock at a conversion price of \$30.00 per share, or a conversion rate of 33.333 shares of common stock per share of Series A Convertible Preferred Stock. As of December 31, 2020, the maximum number of common shares that could be required to be issued upon conversion of the outstanding shares of the Series A Convertible Preferred Stock was 9.2 million shares which would represent approximately 7% of our outstanding common stock as of December 31, 2020 including the preferred shares on an as-converted basis.

**Cash and Cash Equivalents Held by Foreign Subsidiaries** Cash and cash equivalents held by the Company's foreign subsidiaries were \$329 million and \$475 million at December 31, 2020 and 2019, respectively. As a result of the Tax Cuts and Jobs Act of 2017, including the repatriation tax, in general we will not be subject to additional U.S. taxes if cash and cash equivalents and short-term investments held outside the U.S. are distributed to the U.S. in the form of dividends or otherwise. However, we may be subject to foreign withholding taxes, which could be significant.

**Summary** As of December 31, 2020, our cash and cash equivalents totaled \$338 million and our total debt was \$3.32 billion. Our borrowing capacity under our senior secured credit facility was \$999 million at December 31, 2020. Our ability to generate positive cash flows from operations is dependent on general economic conditions, and the competitive environment in our industry, and is subject to the business and other risk factors described in Item 1A of Part I of this Report. If we are unable to generate sufficient

cash flows from operations, or otherwise comply with the terms of our credit facilities, we may be required to seek additional financing alternatives.

We believe that we have sufficient liquidity based on our current cash position, cash flows from operations and existing financing to meet our expected pension, postemployment and postretirement plan contributions, remediation payments related to environmental matters, debt servicing obligations, payments related to transformation initiatives, and our operating requirements for the next twelve months.

**Contractual Obligations** In the normal course of business, we enter into various contractual obligations that impact, or could impact, the liquidity of our operations. The following table and discussion outlines our material obligations as of December 31, 2020 on an undiscounted basis, with projected cash payments in the years shown:

In millions	Total Amounts	2021	2022-2023	2024-2025	2026 & Thereafter	All Other
Debt obligations	\$ 3,318	\$ 8	\$ 16	\$ 491	\$ 2,803	\$ —
Interest on debt obligations	1,200	176	338	313	373	—
Estimated environmental liability payments	191	91	59	30	11	—
Lease obligations	667	131	166	93	277	—
Purchase obligations	1,123	1,074	32	17	—	—
Uncertain tax positions	102	—	—	—	—	102
<b>Total obligations</b>	<b>\$ 6,601</b>	<b>\$ 1,480</b>	<b>\$ 611</b>	<b>\$ 944</b>	<b>\$ 3,464</b>	<b>\$ 102</b>

For purposes of this table, we used interest rates as of December 31, 2020 to estimate the future interest on debt obligations outstanding as of December 31, 2020 and have assumed no voluntary prepayments of existing debt. See Note 5, "Debt Obligations" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report for additional disclosure related to our debt obligations and the related interest rate terms.

The estimated environmental liability payments included in the table of contractual obligations shown above are related to the Fox River, Kalamazoo River and Ebina environmental matters. The amounts shown are our expected payments, net of the payment obligations of co-obligors and an estimate for payments to be received from indemnification parties. For additional information, refer to Note 9, "Commitments and Contingencies" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report.

Our lease obligations are primarily for future rental amounts for our world headquarters in Atlanta, Georgia, as well as for certain sales and manufacturing facilities in various domestic and international locations and leases related to equipment and vehicles.

Purchase obligations represent committed purchase orders and other contractual commitments for goods or services. The purchase obligation amounts were determined through information in our procurement systems and payment schedules for significant contracts. Included in the amounts are committed payments in relation to the long-term service agreement with Accenture under which NCR's transaction processing activities and functions are performed.

We have a \$102 million liability related to our uncertain tax positions. Due to the nature of the underlying liabilities and the extended time often needed to resolve income tax uncertainties, we cannot make reliable estimates of the amount or timing of cash payments that may be required to settle these liabilities. For additional information, refer to Note 6, "Income Taxes" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report.

Our U.S. and international employee benefit plans, which are described in Note 8, "Employee Benefit Plans" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report, could require significant future cash payments. In 2020, we made a discretionary contribution of \$70 million to our U.S. pension plan. As a result, we do not expect mandatory contributions until 2023 based on current funding requirements and assuming the Company does not complete any further actions, including, but not limited to, a further pre-fund or de-risking action. The funded status of NCR's U.S. pension plan is an underfunded position of \$539 million as of December 31, 2020 compared to an underfunded position of \$577 million as of December 31, 2019. Our international retirement plans were in an underfunded position of \$128 million as of December 31, 2020, as compared to an underfunded position of \$116 million as of December 31, 2019. The increase in our underfunded position is primarily attributable to a decrease in discount rates. Contributions to international pension plans are expected to be approximately \$25 million in 2021.

We also have product warranties that may affect future cash flows. These items are not included in the table of obligations shown above, but are described in detail in Note 9, "Commitments and Contingencies" of the Notes to Consolidated Financial Statements included in Item 8 of Part II of this Report.

Our senior secured credit facility and the indentures for our senior unsecured notes include affirmative and negative covenants that restrict or limit our ability to, among other things, incur indebtedness; create liens on assets; engage in certain fundamental corporate changes or changes to our business activities; make investments; sell or otherwise dispose of assets; engage in sale-leaseback or hedging transactions; pay dividends or make similar distributions; repay other indebtedness; engage in certain affiliate transactions; or enter into agreements that restrict our ability to create liens, pay dividends or make loan repayments. Our senior secured credit facility also includes financial covenants that require us to maintain:

- a consolidated leverage ratio on the last day of any fiscal quarter, not to exceed (i) in the case of any fiscal quarter ending on or prior to March 31, 2021, (a) the sum of 4.50 and an amount (not to exceed 0.50) to reflect debt used to reduce NCR's unfunded pension liabilities to (b) 1.00, and (ii) in the case of any fiscal quarter ending after March 31, 2021 and on or prior to March 31, 2023, (a) the sum of 4.25 and an amount (not to exceed 0.50) to reflect debt used to reduce NCR's unfunded pension liabilities to (b) 1.00; and (iii) in the case of any fiscal quarter ending after March 31, 2023, (a) the sum of 4.00 and an amount (not to exceed 0.50) to reflect debt used to reduce our unfunded pension liabilities to (b) 1.00.

The Company has the option to elect to increase the maximum permitted leverage ratio by 0.25 in connection with the consummation of any material acquisition (as defined in the senior secured credit facility) for four fiscal quarters, but in no event will the maximum permitted leverage ratio, inclusive of all increases, exceed 4.75 to 1.00. At December 31, 2020, the maximum consolidated leverage ratio under the Senior Secured Credit Facility was 4.60 to 1.00.

**Off-Balance Sheet Arrangements** We have no significant contractual obligations not fully recorded on our Consolidated Balance Sheets or fully disclosed in the notes to our consolidated financial statements. We have no material off-balance sheet arrangements as defined by SEC Regulation S-K Item 303(a)(4)(ii).

See Note 9, "Commitments and Contingencies" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report for additional information on guarantees associated with our business activities.

## CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Our consolidated financial statements are prepared in accordance with GAAP. In connection with the preparation of these financial statements, we are required to make assumptions, estimates and judgments that affect the reported amounts of assets, liabilities, revenue, expenses and the related disclosure of contingent liabilities. These assumptions, estimates and judgments are based on historical experience and are believed to be reasonable at the time. However, because future events and their effects cannot be determined with certainty, the determination of estimates requires the exercise of judgment. Our critical accounting policies are those that require assumptions to be made about matters that are highly uncertain. Different estimates could have a material impact on our financial results. Judgments and uncertainties affecting the application of these policies and estimates may result in materially different amounts being reported under different conditions or circumstances. Our management continually reviews these assumptions, estimates and judgments to ensure that our financial statements are presented fairly and are materially correct.

In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP and does not require significant management judgment in its application. There are also areas in which management's judgment in selecting among available alternatives would not produce a materially different result. The significant accounting policies and estimates that we believe are the most critical to aid in fully understanding and evaluating our reported financial results are discussed in the paragraphs below. Our senior management has reviewed these critical accounting policies and related disclosures with our independent registered public accounting firm and the Audit Committee of our Board of Directors. See Note 1, "Basis of Presentation and Significant Accounting Policies" of the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report, which contains additional information regarding our accounting policies and other disclosures required by GAAP.

**Revenue Recognition** The Company records revenue when, or as, performance obligations are satisfied by transferring control of a promised good or service to the customer in an amount that reflects the consideration we expect to be entitled to in exchange for products and services. The Company evaluates the transfer of control primarily from the customer's perspective where the customer has the ability to direct the use of and obtain substantially all of the remaining benefits from that good or service. The Company does not adjust the transaction price for taxes collected from customers, as those amounts are netted against amounts remitted to government authorities.

NCR frequently enters contracts that include multiple distinct performance obligations, including hardware, software, professional consulting services, installation services and maintenance support services. A promise to a customer is considered distinct when the product or service is both capable of being distinct, and distinct in the context of the contract. For these arrangements, the Company allocates the transaction price, at contract inception, to each distinct performance obligation on a relative standalone selling price basis. The primary method used to estimate standalone selling price is the price that the Company charges for that good or service when the Company sells it separately in similar circumstances to similar customers.

For hardware products, control is generally transferred when the customer has the ability to direct the use of and obtain substantially all of the remaining benefits of the products, which generally coincides with when the customer has assumed title and risk of loss of the goods sold. In certain instances, customer acceptance is required prior to the passage of title and risk of loss of the delivered products. In such cases, revenue is not recognized until the customer acceptance is obtained. Delivery, acceptance, and transfer of title and risk of loss generally occur in the same reporting period. NCR's customers may request that delivery and passage of title and risk of loss occur on a bill and hold basis. Hardware products may also be provided as a service when included in a package sold with software and services. In these instances, revenue is recognized in accordance with the lease accounting standard and depending on the terms and conditions included in the contract may be either sales-type leases or operating leases. Revenue from hardware sales-type leases is recognized at the beginning of the lease term and revenue from operating leases is recognized on a straight-line basis over the term of the contract.

Software products may be sold as perpetual licenses, term-based licenses, cloud-enabled and software as a service (SaaS). Perpetual license revenue is recognized at a point in time when control transfers to the customer and reported within product revenue. Control is typically transferred when the customer takes possession of, or has access to, the software. Term-based license revenue is recognized at a point in time upon the commencement of the committed term of the contract, concurrent with the possession of the license, and reported within product revenue. The committed term of the contract is typically one month to one year due to customer termination rights. If the amount of consideration the Company expects to be paid in exchange for the licenses depends on customer usage, revenue is recognized when the usage occurs.

Software as a service primarily consists of fees to provide our customers access to our platform and cloud-based applications for a specified contract term. Revenue from SaaS contracts is recognized as variable consideration directly allocated based on customer usage or on a ratable basis over the contract term beginning on the date that our service is made available to the customer. SaaS is reported as part of our services revenue.

The Company sells some product solutions that include a combination of cloud-enabled and on-premise term-based software licenses for a specified contract term. Significant judgment is required to determine if the products and services represent distinct promises to the customer or if they should be combined into one performance obligation. When they are combined into one performance obligation, revenue is recognized ratably over the contract term for which the service is provided.

In addition to SaaS, our services revenue includes professional consulting, installation and maintenance support. Professional consulting primarily consists of software implementation, integration, customization and optimization services. Revenue from professional consulting contracts is recognized when the services are completed or customer acceptance of the service is received, if required. For installation and maintenance, control is transferred as the services are provided or ratably over the service period, or, if applicable, after customer acceptance of the service. We apply the 'as invoiced' practical expedient, for performance obligations satisfied over time, if the amount we may invoice corresponds directly with the value to the customer of the Company's performance to date. This expedient permits us to recognize revenue in the amount we invoice the customer.

The nature of our arrangements gives rise to several types of variable consideration including service level agreement credits, stock rotation rights, trade-in credits and volume-based rebates. At contract inception, we include this variable consideration in our transaction price when there is a basis to reasonably estimate the amount of the fee and it is probable there will not be a significant reversal. These estimates are generally made using the expected value method and a portfolio approach, based on historical experience, anticipated performance and our best judgment at the time. These estimates are reassessed at each reporting date. Because of our confidence in estimating these amounts, they are included in the transaction price of our contracts and the associated remaining performance obligations.

We account for shipping and handling activities related to contracts with customers as costs to fulfill our promise to transfer the associated products, rather than as a separate performance obligation. Accordingly, we record amounts billed for shipping and handling costs as a component of net product sales, and classify such costs as a component of cost of products.

**Allowance for Credit Losses on Accounts Receivable** Allowances for credit losses on accounts receivable are recognized when reasonable and supportable forecasts affect the expected collectability. This requires us to make our best estimate of the current expected losses inherent in our accounts receivable at each balance sheet date. These estimates require consideration of historical loss experience, adjusted for current conditions, forward looking indicators, trends in customer payment frequency and judgments



about the probable effects of relevant observable data, including present and future economic conditions and the financial health of specific customers and market sectors. This policy is applied consistently among all of our operating segments.

Given our experience, the reserves for potential losses are considered adequate, but if one or more of our larger customers were to default on its obligations, we could be exposed to potentially significant losses in excess of the provisions established. We continually evaluate our reserves for doubtful accounts and economic deterioration could lead to the need to increase our allowances.

**Inventory Valuation** Inventories are stated at the lower of cost or net realizable value, using the average cost method. Each quarter, we reassess raw materials, work-in-process, parts and finished equipment inventory costs to identify purchase or usage variances from standards, and valuation adjustments are made. Additionally, to properly provide for potential exposure due to slow-moving, excess, obsolete or unusable inventory, inventory values are reduced based on forecasted usage, orders, technological obsolescence and inventory aging. These factors are impacted by market conditions, technology changes and changes in strategic direction, and require estimates and management judgment that may include elements that are uncertain. On a quarterly basis, we review the current net realizable value of inventory and adjust for any inventory exposure due to age or excess of cost over net realizable value.

We have inventory in more than 40 countries around the world. We purchase inventory from third party suppliers and manufacture inventory at our plants. This inventory is transferred to our distribution and sales organizations at cost plus a mark-up. This mark-up is referred to as inter-company profit. Each quarter, we review our inventory levels and analyze our inter-company profit to determine the correct amount of inter-company profit to eliminate. Key assumptions are made to estimate product gross margins, the product mix of existing inventory balances and current period shipments. Over time, we refine these estimates as facts and circumstances change. If our estimates require refinement, our results could be impacted. The policies described are applied consistently across all of our operating segments.

**Goodwill** Goodwill is tested at the reporting unit level for impairment on an annual basis during the fourth quarter or more frequently if certain events occur indicating that the carrying value of goodwill may be impaired. A significant amount of judgment is involved in determining if an indicator of impairment has occurred. Such indicators may include a decline in expected cash flows, a significant adverse change in legal factors or in the business climate, a decision to sell a business, unanticipated competition, or slower growth rates, among others.

In the evaluation of goodwill for impairment, we have the option to perform a qualitative assessment to determine whether further impairment testing is necessary or to perform a quantitative assessment by comparing the fair value of a reporting unit to its carrying amount, including goodwill. Under the qualitative assessment, an entity is not required to calculate the fair value of a reporting unit unless the entity determines that it is more likely than not that its fair value is less than its carrying amount. If under the quantitative assessment the fair value of a reporting unit is less than its carrying amount, then the amount of the impairment loss, if any, is determined based on the amount by which the carrying amount exceeds the fair value up to the total value of goodwill assigned to the reporting unit. Fair values of the reporting units are estimated using a weighted methodology considering the output from both the income and market approaches. The income approach incorporates the use of a discounted cash flow (DCF) analysis. A number of significant assumptions and estimates are involved in the application of the DCF model to forecast operating cash flows, including revenue growth, operating income margin and discount rate. Several of these assumptions vary among reporting units. The cash flow forecasts are generally based on approved strategic operating plans. The market approach is performed using the Guideline Public Companies (GPC) method which is based on earnings multiple data. We perform a reconciliation between our market capitalization and our estimate of the aggregate fair value of the reporting units, including consideration of a control premium.

**Valuation of Long-lived Assets and Amortizable Other Intangible Assets** We perform impairment tests for our long-lived assets if an event or circumstance indicates that the carrying amount of our long-lived assets may not be recoverable. In response to changes in industry and market conditions, we may also strategically realign our resources and consider restructuring, disposing of, or otherwise exiting businesses. Such activities could result in impairment of our long-lived assets or other intangible assets. We also are subject to the possibility of impairment of long-lived assets arising in the ordinary course of business. We consider the likelihood of impairment if certain events occur indicating that the carrying value of the long-lived assets may be impaired and we may recognize impairment if the carrying amount of a long-lived asset or intangible asset is not recoverable from its undiscounted cash flows. Impairment is measured as the difference between the carrying amount and the fair value of the asset. We use both the income approach and market approach to estimate fair value. Our estimates of fair value are subject to a high degree of judgment since they include a long-term forecast of future operations. Accordingly, any value ultimately derived from our long-lived assets may differ from our estimate of fair value.

**Pension, Postretirement and Postemployment Benefits** We sponsor domestic and foreign defined benefit pension and postemployment plans as well as domestic postretirement plans. As a result, we have significant pension, postretirement and postemployment benefit costs, which are developed from actuarial valuations. Actuarial assumptions attempt to anticipate future events and are used in calculating the expense and liability relating to these plans. These factors include assumptions we make about interest rates, expected investment return on plan assets, involuntary turnover rates, and rates of future compensation increases. In addition, our actuarial consultants advise us about subjective factors such as withdrawal rates and mortality rates to use in our valuations. We generally review and update these assumptions on an annual basis at the end of each fiscal year. We are required to consider current market conditions, including changes in interest rates, in making these assumptions. The actuarial assumptions that we use may differ materially from actual results due to changing market and economic conditions, higher or lower withdrawal rates, or longer or shorter life spans of participants. These differences may result in a significant impact to the amount of pension, postretirement or postemployment benefits expense we have recorded or may record. Ongoing pension, postemployment and postretirement expense impacts all of our segments. Pension mark-to-market adjustments, settlements, curtailments and special termination benefits are excluded from our segment results as those items are not included in the evaluation of segment performance. See Note 4, "Segment Information and Concentrations," in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report for a reconciliation of our segment results to income from operations.

The key assumptions used in developing our 2020 expense were discount rates of 2.7% for our U.S. pension plan and 2.5% for our postretirement plan, and an expected return on assets assumption of 2.8% for our U.S. pension plan in 2020. The U.S. plan represented 62% of the pension obligation and 100% of the postretirement plan obligation as of December 31, 2020. Holding all other assumptions constant, a 0.25% change in the discount rate used for the U.S. plan would have increased or decreased 2020 ongoing pension expense by approximately \$3 million and would have had an immaterial impact on 2020 postretirement income. A 0.25% change in the expected rate of return on plan assets assumption for the U.S. pension plan would have increased or decreased 2020 ongoing pension expense by approximately \$3 million. Our expected return on plan assets has historically been and will likely continue to be material to net income. For 2021, we intend to use discount rates of 1.7% and 1.4% in determining the U.S. pension and postretirement expense, respectively. We intend to use an expected rate of return on assets assumption of 2.1% for the U.S. pension plan.

We recognize additional changes in the fair value of plan assets and net actuarial gains or losses of our pension plans upon remeasurement, which occurs at least annually in the fourth quarter of each year. The remaining components of pension expense, primarily net service cost, interest cost, and the expected return on plan assets, are recorded on a quarterly basis as ongoing pension expense. While it is required that we review our actuarial assumptions each year at the measurement date, we generally do not change them between measurement dates. We use a measurement date of December 31 for all of our plans. Changes in assumptions or asset values may have a significant effect on the annual measurement of expense or income in the fourth quarter.

The most significant assumption used in developing our 2020 postemployment plan expense is the assumed rate of involuntary turnover of 3.8%. The involuntary turnover rate is based on historical trends and projections of involuntary turnover in the future. A 0.25% change in the rate of involuntary turnover would have increased or decreased 2020 expense by approximately \$2 million. The sensitivity of the assumptions described above is specific to each individual plan and not to our pension, postretirement and postemployment plans in the aggregate. We intend to use an involuntary turnover assumption of 3.8% in determining the 2021 postemployment expense.

**Environmental and Legal Contingencies** Each quarter, we review the status of each claim and legal proceeding and assess our potential financial exposure. If the potential loss from any claim or legal proceeding would be material and is considered probable and the amount can be reasonably estimated, we accrue a liability for the estimated loss. To the extent that the amount of such a probable loss is estimable only by reference to a range of equally likely outcomes, and no amount within the range appears to be a better estimate than any other amount, we accrue the amount at the low end of the range. Because of uncertainties related to these matters, the use of estimates, assumptions and judgments, and external factors beyond our control, accruals are based on the best information available at the time. At environmental sites, or portions of environmental sites, where liability is determined to be probable but a remedy has not yet been determined, we accrue for the costs of investigations and studies for the affected areas but not for the costs of remediation. As additional information becomes available, we reassess the potential liability related to our pending claims and litigation and may revise our estimates. Such revisions in the estimates of the potential liabilities could have a material impact on our results of operations and financial position. When insurance carriers or third parties have agreed to pay any amounts related to costs, and we believe that it is probable that we can collect such amounts, those amounts are reflected as receivables in our Consolidated Balance Sheet.

The most significant legal contingencies impacting our Company are the Fox River, Kalamazoo River, and Ebina matters, which are further described in detail in Note 9, "Commitments and Contingencies" in the Notes to Consolidated Financial Statements in Item 8

of Part II of this Report. NCR has been identified as a potentially responsible party (PRP) at both the Fox River and Kalamazoo River sites.

As described below and in Note 9, "Commitments and Contingencies" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report, while litigation activities have largely concluded with respect to the Fox River and Kalamazoo River matters and while the Company has engaged in cooperative regulatory compliance activities with the government of Japan with respect to the Ebina matter, the extent of our potential liabilities continues to be subject to significant uncertainties. The uncertainties related to the Fox River and Kalamazoo River matters include the total cost of clean-up as well as the solvency and willingness of the co-obligors or indemnitors to pay. The uncertainties related to the Ebina matter include total cost of clean-up subject to approval by local agencies in Japan.

Our net reserves for the Fox River matter, the Kalamazoo River matter and the Ebina matter, as of December 31, 2020 were approximately \$28 million, \$164 million, and \$20 million, respectively, as further discussed in Note 9, "Commitments and Contingencies" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report. The Company regularly re-evaluates the assumptions used in determining the appropriate reserve for these matters as additional information becomes available and, when warranted, makes appropriate adjustments.

**Income Taxes** We recognize deferred tax assets and liabilities based on the differences between the financial statement carrying amounts and the tax basis of assets and liabilities. The deferred tax assets and liabilities are determined based on the enacted tax rates expected to apply in the periods in which the deferred tax assets or liabilities are anticipated to be settled or realized.

We regularly review our deferred tax assets for recoverability and establish a valuation allowance if it is more likely than not that some portion or all of a deferred tax asset will not be realized. The determination as to whether a deferred tax asset will be realized is made on a jurisdictional basis and is based on the evaluation of positive and negative evidence. This evidence includes historical taxable income, projected future taxable income, the expected timing of the reversal of existing temporary differences and the implementation of tax planning strategies. Projected future taxable income is based on our expected results and assumptions as to the jurisdiction in which the income will be earned. The expected timing of the reversals of existing temporary differences is based on current tax law and our tax methods of accounting. As a result of this determination, we had valuation allowances of \$341 million as of December 31, 2020 and \$352 million as of December 31, 2019, related to certain deferred income tax assets, primarily tax loss carryforwards, in jurisdictions where there is uncertainty as to the ultimate realization of a benefit from those tax assets.

If we are unable to generate sufficient future taxable income, or if there is a material change in the actual effective tax rates or the time period within which the underlying temporary differences become taxable or deductible, or if the tax laws change unfavorably, then we could be required to increase our valuation allowance against our deferred tax assets, resulting in an increase in our effective tax rate.

The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon settlement. Interest and penalties related to uncertain tax positions are recognized as part of the provision for income taxes and are accrued beginning in the period that such interest and penalties would be applicable under relevant tax law until such time that the related tax benefits are recognized.

During 2019, we transferred certain intangible assets among our wholly-owned subsidiaries, which resulted in the establishment of deferred tax assets of \$274 million. The establishment of deferred tax assets from intra-entity transfers of intangible assets required us to make significant estimates and assumptions to determine the fair value of such intangible assets. Critical estimates in valuing the intangible assets include, but are not limited to, internal revenue and expense forecasts, and discount rates. The sustainability of our future tax benefits is dependent upon the acceptance of these valuation estimates and assumptions by the taxing authorities.

The provision for income taxes may change period-to-period based on non-recurring events, such as the settlement of income tax audits and changes in tax laws, as well as recurring factors including the geographic mix of income before taxes, state and local taxes and the effects of various global income tax strategies. We maintain certain strategic management and operational activities in overseas subsidiaries and our foreign earnings are taxed at rates that are generally lower than in the United States. As of December 31, 2020, we did not provide for U.S. federal income taxes or foreign withholding taxes on approximately \$3.4 billion of undistributed earnings of our foreign subsidiaries as such earnings are expected to be reinvested indefinitely.

Refer to Note 6, "Income Taxes" in the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report for disclosures related to foreign and domestic pretax income, foreign and domestic income tax (benefit) expense and the effect foreign taxes have on our overall effective tax rate.

## RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

A discussion of recently issued accounting pronouncements is described in Note 1, “Basis of Presentation and Significant Accounting Policies” of the Notes to Consolidated Financial Statements in Item 8 of Part II of this Report, and we incorporate by reference such discussion in this MD&A.

## Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

### *Market Risk*

We are exposed to market risks primarily from changes in foreign currency exchange rates and interest rates. It is our policy to manage our foreign exchange exposure and debt structure in order to manage capital costs, control financial risks and maintain financial flexibility over the long term. In managing market risks, we employ derivatives according to documented policies and procedures, including foreign currency contracts and interest rate swaps. We do not use derivatives for trading or speculative purposes.

### *Foreign Exchange Risk*

Since a substantial portion of our operations and revenue occur outside the U.S., and in currencies other than the U.S. Dollar, our results can be significantly impacted by changes in foreign currency exchange rates. We have exposure to approximately 50 functional currencies and are exposed to foreign currency exchange risk with respect to our sales, profits and assets and liabilities denominated in currencies other than the U.S. Dollar. Although we use financial instruments to hedge certain foreign currency risks, we are not fully protected against foreign currency fluctuations and our reported results of operations could be affected by changes in foreign currency exchange rates. To manage our exposures and mitigate the impact of currency fluctuations on the operations of our foreign subsidiaries, we hedge our main transactional exposures through the use of foreign exchange forward and option contracts. These foreign exchange contracts are designated as highly effective cash flow hedges. This is primarily done through the hedging of foreign currency denominated inter-company inventory purchases by the marketing units. All of these transactions are forecasted. We also use derivatives not designated as hedging instruments consisting primarily of forward contracts to hedge foreign currency denominated balance sheet exposures. For these derivatives we recognize gains and losses in the same period as the remeasurement losses and gains of the related foreign currency-denominated exposures.

We utilize non-exchange traded financial instruments, such as foreign exchange forward and option contracts, that we purchase exclusively from highly rated financial institutions. We record these contracts on our balance sheet at fair market value based upon market price quotations from the financial institutions. We do not enter into non-exchange traded contracts that require the use of fair value estimation techniques, but if we did, they could have a material impact on our financial results.

For purposes of analyzing potential risk, we use sensitivity analysis to quantify potential impacts that market rate changes may have on the fair values of our hedge portfolio related to firmly committed or forecasted transactions. The sensitivity analysis represents the hypothetical changes in value of the hedge position and does not reflect the related gain or loss on the forecasted underlying transaction. A 10% appreciation or depreciation in the value of the U.S. Dollar against foreign currencies from the prevailing market rates would have resulted in a corresponding increase or decrease of \$13 million as of December 31, 2020 in the fair value of the hedge portfolio. The Company expects that any increase or decrease in the fair value of the portfolio would be substantially offset by increases or decreases in the underlying exposures being hedged.

The U.S. Dollar was slightly stronger in 2020 compared to 2019 based on comparable weighted averages for our functional currencies. This did not have an impact on 2020 revenue versus 2019 revenue. This excludes the effects of our hedging activities and, therefore, does not reflect the actual impact of fluctuations in exchange rates on our operating income.

### *Interest Rate Risk*

We are subject to interest rate risk principally in relation to variable-rate debt. Approximately 75% of our borrowings were on a fixed rate basis as of December 31, 2020. The increase in pre-tax interest expense for the year ended December 31, 2020 from a hypothetical 100 basis point increase in variable interest rates would be approximately \$19 million.

### *Concentrations of Credit Risk*

We are potentially subject to concentrations of credit risk on accounts receivable and financial instruments, such as hedging instruments and cash and cash equivalents. Credit risk includes the risk of nonperformance by counterparties. The maximum potential loss may exceed the amount recognized on the balance sheet. Exposure to credit risk is managed through credit approvals, credit limits, selecting major international financial institutions as counterparties to hedging transactions and monitoring procedures. Our business often involves large transactions with customers for which we do not require collateral. If one or more of those customers were to default in its obligations under applicable contractual arrangements, we could be exposed to potentially significant losses. Moreover, a prolonged downturn in the global economy could have an adverse impact on the ability of our customers to pay their obligations on a timely basis. We believe that the reserves for potential losses are adequate. As of December 31, 2020, we did not have any significant concentration of credit risk related to financial instruments.

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**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTAL DATA**

**Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Stockholders of NCR Corporation

***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of NCR Corporation and its subsidiaries (the “Company”) as of December 31, 2020 and 2019, and the related consolidated statements of operations, of comprehensive income (loss), of changes in stockholders’ equity and of cash flows for each of the three years in the period ended December 31, 2020, including the related notes and financial statement schedule listed in the index appearing under Item 15(a)(2) (collectively referred to as the “consolidated financial statements”). We also have audited the Company's internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on criteria established in Internal Control - Integrated Framework (2013) issued by the COSO.

***Change in Accounting Principle***

As discussed in Note 1 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2019.

***Basis for Opinions***

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company’s consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

***Definition and Limitations of Internal Control over Financial Reporting***

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance

regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

### ***Critical Audit Matters***

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that (i) relate to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

#### *Valuation of the Hospitality Reporting Unit used in the Goodwill Impairment Analysis*

As described in Notes 1 and 2 to the consolidated financial statements, the Company's consolidated goodwill balance was \$2,837 million as of December 31, 2020, and the goodwill associated with the Hospitality reporting unit was \$381 million. Goodwill is tested at the reporting unit level for impairment on an annual basis during the fourth quarter or more frequently if certain events occur indicating that the carrying amount of goodwill may be impaired. In early 2020, there was significant market volatility driven by the COVID-19 pandemic which drove uncertainty around the Company's full year revenue and operating income expectations. As a result, management determined there was an indication that the carrying value of the net assets assigned to the Hospitality reporting unit may not be recoverable. For the quantitative assessments of the Hospitality reporting unit completed as of March 31, 2020 and during the fourth quarter of 2020, the fair value was estimated using a weighted methodology considering the output from both the income and market approaches. The income approach incorporates the use of discounted cash flow (DCF) analysis. A number of significant assumptions and estimates are involved in the application of the discounted cash flow model to forecast operating cash flows, including revenue growth, operating income margin and discount rate. The market approach is performed using the Guideline Public Companies (GPC) method which is based on earnings multiple data of peer companies.

The principal considerations for our determination that performing procedures relating to valuation of the Hospitality reporting unit used in the goodwill impairment analysis is a critical audit matter are the significant judgment by management in developing the fair value measurements of the Hospitality reporting unit, which in turn led to a high degree of auditor judgment, subjectivity and effort in performing procedures and evaluating audit evidence related to management's significant assumptions related to revenue growth, operating income margin and discount rate. In addition, the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's goodwill impairment assessment, including controls over the valuation of the Company's Hospitality reporting unit. These procedures also included, among others, (i) testing management's process for developing the fair value measurements; (ii) evaluating the appropriateness of the discounted cash flow model; (iii) testing the completeness, accuracy and relevance of underlying data used in the model; and (iv) evaluating the significant assumptions used by management related to revenue growth, operating income margin and discount rate. Evaluating management's assumptions related to revenue growth and operating income margin involved evaluating whether the assumptions used were reasonable considering (i) the current and past performance of the reporting unit, (ii) the consistency with external market data, and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's (i) discounted cash flow model and the discount rate assumption; (ii) market approach and the peer companies and market multiple data used by management; and (iii) the weighting of the two approaches.

#### *Realizability of U.S. Net Deferred Tax Assets*

As described in Note 6 to the consolidated financial statements, the Company's U.S. net deferred tax assets (without valuation allowances) are \$469 million as of December 31, 2020. For the three-year period ended December 31, 2020, the U.S. had a cumulative net loss from continuing operations before income taxes, as adjusted for permanent differences, which is generally considered a negative indicator of the Company's ability to realize the benefits of those assets. Management evaluated the realizability of the U.S. net deferred tax assets by weighing positive and negative evidence, including the Company's history of U.S. pre-tax income adjusted for permanent differences, the impact of the COVID-19 pandemic on the Company's U.S. results in 2020 and in the near-term, projected U.S. taxable income, and the length of time over which the Company's deferred tax assets relating to net operating losses, general basket foreign tax credits, interest limitation carryforward, research and development credits and a

variety of temporary differences may be realized. Through this assessment, realization of the related benefits was determined by management to be more likely than not.

The principal considerations for our determination that performing procedures relating to the realizability of U.S. net deferred tax assets is a critical audit matter are the significant judgment by management when assessing whether it is more likely than not that the Company will realize the U.S. net deferred tax assets, which in turn led to a high degree of auditor judgment, subjectivity and effort in performing procedures and evaluating audit evidence related to management's significant assumptions related to (i) projected U.S. taxable income and (ii) the length of time over which the Company's deferred tax assets relating to general basket foreign tax credits and research and development credits may be realized. Also, the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to assessing the realizability of U.S. net deferred tax assets. These procedures also included, among others, (i) testing management's process for assessing the realizability of the U.S. net deferred tax assets and for estimating projected U.S. taxable income; (ii) testing the completeness, accuracy and relevance of underlying data used in the assessment of the realizability of U.S. deferred tax assets; (iii) evaluating the significant assumptions used by management related to projected U.S. taxable income and the length of time over which the Company's deferred tax assets relating to general basket foreign tax credits and research and development credits may be realized; and (iv) evaluating the positive and negative evidence used by management. Evaluating management's assumptions related to projected U.S. taxable income and the length of time over which deferred tax assets relating to general basket foreign tax credits and research and development credits may be realized involved evaluating whether the assumptions used were reasonable considering (i) the current and past performance of the Company's U.S. operations; and (ii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Professionals with specialized skills and knowledge were utilized to assist in the evaluation of the Company's assessment of the length of time over which its deferred tax assets relating to general basket foreign tax credits and research and development credits may be realized.

/s/ PricewaterhouseCoopers LLP

Atlanta, Georgia

February 26, 2021

We have served as the Company's auditor since 1993.



**NCR Corporation**  
**Consolidated Statements of Operations**

For the years ended December 31, (in millions, except per share amounts)	2020	2019	2018
Product revenue	\$ 2,005	\$ 2,681	\$ 2,341
Service revenue	4,202	4,234	4,064
<b>Total revenue</b>	<b>6,207</b>	<b>6,915</b>	<b>6,405</b>
Cost of products	1,733	2,146	1,988
Cost of services	2,950	2,848	2,742
Selling, general and administrative expenses	1,051	1,051	1,005
Research and development expenses	234	259	252
Asset impairment charges	18	—	227
<b>Total operating expenses</b>	<b>5,986</b>	<b>6,304</b>	<b>6,214</b>
<b>Income from operations</b>	<b>221</b>	<b>611</b>	<b>191</b>
Loss on extinguishment of debt	(20)	—	—
Interest expense	(218)	(197)	(168)
Other income (expense), net	(42)	(73)	16
Income (loss) from continuing operations before income taxes	(59)	341	39
Income tax expense (benefit)	(53)	(273)	73
Income (loss) from continuing operations	(6)	614	(34)
Loss from discontinued operations, net of tax	(72)	(50)	(52)
<b>Net income (loss)</b>	<b>(78)</b>	<b>564</b>	<b>(86)</b>
Net income attributable to noncontrolling interests	1	—	2
<b>Net income (loss) attributable to NCR</b>	<b>\$ (79)</b>	<b>\$ 564</b>	<b>\$ (88)</b>
<b>Amounts attributable to NCR common stockholders:</b>			
Income (loss) from continuing operations	\$ (7)	\$ 614	\$ (36)
Series A convertible preferred stock dividends	(31)	(110)	(49)
Income (loss) from continuing operations attributable to NCR	(38)	504	(85)
Loss from discontinued operations, net of tax	(72)	(50)	(52)
Net income (loss) attributable to NCR common stockholders	\$ (110)	\$ 454	\$ (137)
<b>Income (loss) per share attributable to NCR common stockholders:</b>			
<b>Income (loss) per common share from continuing operations</b>			
Basic	\$ (0.30)	\$ 4.13	\$ (0.72)
Diluted	\$ (0.30)	\$ 3.71	\$ (0.72)
<b>Net income (loss) per common share</b>			
Basic	\$ (0.86)	\$ 3.72	\$ (1.16)
Diluted	\$ (0.86)	\$ 3.36	\$ (1.16)
<b>Weighted average common shares outstanding</b>			
Basic	128.4	122.1	118.4
Diluted	128.4	145.2	118.4

The accompanying notes are an integral part of the Consolidated Financial Statements.

**NCR Corporation**  
**Consolidated Statements of Comprehensive Income (Loss)**

For the years ended December 31 (in millions)	2020	2019	2018
Net income (loss)	\$ (78)	\$ 564	\$ (86)
Other comprehensive income (loss):			
<b>Currency translation adjustments</b>			
Currency translation adjustments	15	(29)	(53)
<b>Derivatives</b>			
Unrealized gain (loss) on derivatives	(8)	6	11
Loss (gains) on derivatives arising during the period	7	(8)	(7)
Less income tax benefit (expense)	—	1	(1)
<b>Employee benefit plans</b>			
Prior service benefit	(1)	—	(4)
Amortization of prior service cost	(4)	(6)	(9)
Net (loss) gain arising during the period	(11)	12	12
Amortization of actuarial (loss) gain	(3)	(3)	—
Less income tax benefit (expense)	3	1	1
<b>Other comprehensive income (loss)</b>	<b>(2)</b>	<b>(26)</b>	<b>(50)</b>
<b>Total comprehensive income (loss)</b>	<b>(80)</b>	<b>538</b>	<b>(136)</b>
Less comprehensive income attributable to noncontrolling interests:			
Net income	1	—	2
Currency translation adjustments	—	(3)	(2)
<b>Amounts attributable to noncontrolling interests</b>	<b>1</b>	<b>(3)</b>	<b>—</b>
<b>Comprehensive income (loss) attributable to NCR common stockholders</b>	<b>\$ (81)</b>	<b>\$ 541</b>	<b>\$ (136)</b>

The accompanying notes are an integral part of the Consolidated Financial Statements.

**NCR Corporation**  
**Consolidated Balance Sheets**

As of December 31 (in millions except per share amounts)	2020	2019
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 338	\$ 509
Accounts receivable, net of allowances of \$51 and \$44 as of December 31, 2020 and 2019, respectively	1,117	1,490
Inventories	601	784
Other current assets	422	361
<b>Total current assets</b>	<b>2,478</b>	<b>3,144</b>
Property, plant and equipment, net	373	413
Goodwill	2,837	2,832
Intangibles, net	532	607
Operating lease assets	344	391
Prepaid pension cost	199	178
Deferred income taxes	965	821
Other assets	686	601
<b>Total assets</b>	<b>\$ 8,414</b>	<b>\$ 8,987</b>
<b>Liabilities and stockholders' equity</b>		
Current liabilities		
Short-term borrowings	\$ 8	\$ 282
Accounts payable	632	840
Payroll and benefits liabilities	268	308
Deferred service revenue and customer deposits	507	502
Other current liabilities	673	606
<b>Total current liabilities</b>	<b>2,088</b>	<b>2,538</b>
Long-term debt	3,270	3,277
Pension and indemnity plan liabilities	851	858
Postretirement and postemployment benefits liabilities	120	111
Income tax accruals	102	92
Operating lease liabilities	325	369
Other liabilities	334	240
<b>Total liabilities</b>	<b>7,090</b>	<b>7,485</b>
<b>Commitments and Contingencies (Note 9)</b>		
Series A convertible preferred stock: par value \$0.01 per share, 3.0 shares authorized, 0.3 and 0.4 shares issued and outstanding as of December 31, 2020 and 2019, respectively; redemption amount and liquidation preference of \$276 and \$399 as of December 31, 2020 and 2019, respectively	273	395
<b>Stockholders' equity</b>		
NCR stockholders' equity		
Preferred stock: par value \$0.01 per share, 100.0 shares authorized, no shares issued and outstanding as of December 31, 2020 and 2019, respectively	—	—
Common stock: par value \$0.01 per share, 500.0 shares authorized, 129.1 and 127.7 shares issued and outstanding as of December 31, 2020 and 2019, respectively	1	1
Paid-in capital	368	312
Retained earnings	950	1,060
Accumulated other comprehensive loss	(271)	(269)
<b>Total NCR stockholders' equity</b>	<b>1,048</b>	<b>1,104</b>
Noncontrolling interests in subsidiaries	3	3
<b>Total stockholders' equity</b>	<b>1,051</b>	<b>1,107</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 8,414</b>	<b>\$ 8,987</b>

The accompanying notes are an integral part of the Consolidated Financial Statements.

**NCR Corporation**  
**Consolidated Statements of Cash Flows**

For the years ended December 31 (in millions)	2020	2019	2018
<b>Operating activities</b>			
Net income (loss)	\$ (78)	\$ 564	\$ (86)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Loss from discontinued operations	72	50	52
Loss on debt extinguishment	20	—	—
Depreciation and amortization	364	333	330
Stock-based compensation expense	108	107	72
Deferred income taxes	(112)	(355)	14
Gain on disposal of property, plant and equipment and other assets	(1)	(6)	(2)
Impairment of long-lived and other assets	46	2	239
Bargain purchase gain on acquisition	(7)	—	—
Changes in assets and liabilities:			
Receivables	420	(144)	(155)
Inventories	168	5	(70)
Current payables and accrued expenses	(295)	(20)	198
Deferred service revenue and customer deposits	2	31	(13)
Employee benefit plans	(51)	59	(60)
Other assets and liabilities	(15)	8	53
<b>Net cash provided by operating activities</b>	<b>641</b>	<b>634</b>	<b>572</b>
<b>Investing activities</b>			
Expenditures for property, plant and equipment	(31)	(91)	(143)
Proceeds from sales of property, plant and equipment	7	11	3
Additions to capitalized software	(232)	(238)	(170)
Business acquisitions, net	(25)	(203)	(160)
Purchases of investments	(20)	—	—
Proceeds from sale of investments	27	—	—
Other investing activities, net	(3)	9	(4)
<b>Net cash used in investing activities</b>	<b>(277)</b>	<b>(512)</b>	<b>(474)</b>
<b>Financing activities</b>			
Short term borrowings, net	—	—	(1)
Payments on term credit facilities	(12)	(761)	(51)
Borrowings on term credit facility	4	750	—
Payments on revolving credit facilities	(1,998)	(3,216)	(2,233)
Borrowings on revolving credit facilities	1,535	3,535	2,453
Payments of senior unsecured notes, including call premium of \$15	(1,315)	(900)	—
Proceeds from issuance of senior unsecured notes	1,500	1,000	—
Debt issuance costs	(21)	(32)	—
Cash paid for Series A Convertible Preferred Stock dividends	(9)	—	—
Repurchases of Company common stock	(41)	(96)	(210)
Tax withholding payments on behalf of employees	(28)	(29)	(36)
Proceeds from employee stock plans	17	16	20
Net increase (decrease) in client obligations	12	(15)	10
Redemption of preferred shares	(144)	(302)	—
Principal payments for finance lease obligations	(13)	(4)	—
Purchase of noncontrolling interest	—	(3)	—
Other financing activities	(1)	(4)	—
<b>Net cash used in financing activities</b>	<b>(514)</b>	<b>(61)</b>	<b>(48)</b>
<b>Cash flows from discontinued operations</b>			
Net cash used in discontinued operations operating activities	—	(24)	(36)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(7)	(6)	(25)
Increase (decrease) in cash, cash equivalents and restricted cash	(157)	31	(11)
Cash, cash equivalents and restricted cash at beginning of period	563	532	543
<b>Cash, cash equivalents and restricted cash at end of period</b>	<b>\$ 406</b>	<b>\$ 563</b>	<b>\$ 532</b>
<b>Supplemental data</b>			
Cash paid during the year for:			
Income taxes	\$ 82	\$ 61	\$ 106
Interest	\$ 196	\$ 168	\$ 160

The accompanying notes are an integral part of the Consolidated Financial Statements.

**NCR Corporation**  
**Consolidated Statements of Changes in Stockholders' Equity**

in millions	NCR Stockholders							Total
	Common Stock		Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive (Loss) Income	Noncontrolling Interests in Subsidiaries		
	Shares	Amount						
<b>December 31, 2017</b>	122	1	60	857	(199)	3	722	
Comprehensive income (loss):								
Net income (loss)	—	—	—	(88)	—	1	(87)	
Other comprehensive income (loss)	—	—	—	—	(48)	—	(48)	
Total comprehensive income (loss)	—	—	—	(88)	(48)	1	(135)	
Cumulative effect of adoption of new accounting standards	—	—	—	14	1	—	15	
Employee stock purchase and stock compensation plans	2	—	56	—	—	—	56	
Repurchase of Company common stock	(6)	—	(82)	(128)	—	—	(210)	
Series A convertible preferred stock dividends	—	—	—	(49)	—	—	(49)	
<b>December 31, 2018</b>	<b>118</b>	<b>1</b>	<b>34</b>	<b>606</b>	<b>(246)</b>	<b>4</b>	<b>399</b>	
Comprehensive income (loss):								
Net income (loss)	—	—	—	564	—	2	566	
Other comprehensive income (loss)	—	—	—	—	(23)	(2)	(25)	
Total comprehensive income (loss)	—	—	—	564	(23)	—	541	
Employee stock purchase and stock compensation plans	3	—	94	—	—	—	94	
Redemption of Series A preferred stock dividends	9	—	272	(67)	—	—	205	
Repurchase of Company common stock	(3)	—	(96)	—	—	—	(96)	
Series A convertible preferred stock dividends	—	—	—	(43)	—	—	(43)	
Dividends paid to minority shareholder	—	—	—	—	—	(1)	(1)	
Purchase of redeemable non-controlling interest	—	—	8	—	—	—	8	
<b>December 31, 2019</b>	<b>127</b>	<b>\$ 1</b>	<b>\$ 312</b>	<b>\$ 1,060</b>	<b>\$ (269)</b>	<b>\$ 3</b>	<b>\$ 1,107</b>	
Comprehensive income (loss):								
Net income (loss)	—	—	—	(79)	—	1	(78)	
Other comprehensive income (loss)	—	—	—	—	(2)	—	(2)	
Total comprehensive income (loss)	—	—	—	(79)	(2)	1	(80)	
Employee stock purchase and stock compensation plans	4	—	97	—	—	—	97	
Deemed dividend from redemption of Series A preferred stock	—	—	—	(12)	—	—	(12)	
Repurchase of Company common stock	(2)	—	(41)	—	—	—	(41)	
Series A convertible preferred stock dividends	—	—	—	(19)	—	—	(19)	
Dividends paid to minority shareholder	—	—	—	—	—	(1)	(1)	
<b>December 31, 2020</b>	<b>129</b>	<b>\$ 1</b>	<b>\$ 368</b>	<b>\$ 950</b>	<b>\$ (271)</b>	<b>\$ 3</b>	<b>\$ 1,051</b>	

The accompanying notes are an integral part of the Consolidated Financial Statements.

**NCR Corporation**  
**Notes to Consolidated Financial Statements**

**1. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES**

**Description of Business** NCR is a leading software- and services-led enterprise provider in the financial, retail, hospitality, and telecommunications and technology industries. NCR is a global company that is headquartered in Atlanta, Georgia. NCR offers a range of solutions that help businesses of all sizes run the store, run the restaurant and run self-service banking channels. Our portfolio includes digital first offerings for banking, restaurants and retailers, as well as payments processing, multi-vendor connected device services, automated teller machines (ATMs), point of sale (POS) terminals and self-service technologies. We also resell third-party networking products and provide related service offerings in the telecommunications and technology sectors. Our solutions are also designed to support our transition to an as-a-Service company and enable us to be the technology-based service provider of choice to our customers.

**Use of Estimates** The preparation of financial statements in accordance with generally accepted accounting principles in the United States (U.S. GAAP) requires management to make estimates and judgments that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and revenue and expenses during the periods reported.

Although our estimates contemplate current and expected future conditions, as applicable, it is reasonably possible that actual conditions could differ from our expectations, which could materially affect our results of operations and financial position. In particular, a number of estimates have been and will continue to be affected by the ongoing novel coronavirus (COVID-19) pandemic. The severity, magnitude and duration of the COVID-19 pandemic, and the resulting economic consequences, are uncertain, rapidly changing and difficult to predict. As a result, our accounting estimates and assumptions may change over time as a consequence of the effects of the COVID-19 pandemic. Such changes could result in future impairments of goodwill, intangible assets, long-lived assets, incremental credit losses on accounts receivable and decreases in the carrying amount of our tax assets.

**Subsequent Events** The Company evaluated subsequent events through the date that our Consolidated Financial Statements were issued. Other than the items discussed below and within the notes to the Consolidated Financial Statements, no matters were identified that required adjustment of the Consolidated Financial Statements or additional disclosure.

*Announced proposed transaction with Cardtronics* On January 25, 2021, NCR entered into a definitive agreement with to acquire all outstanding shares of Cardtronics plc for \$39.00 per share. The transaction is subject to regulatory approval and customary closing conditions, including approval by Cardtronics' shareholders, and is expected to close in mid-2021. Cardtronics is the world's largest non-bank ATM operator and service provider enabling cash transactions by converting digital currency into physical cash at over 285,000 ATMs across 10 countries in North America, Europe, Asia-Pacific, and Africa.

*Completed acquisitions of Freshop* On January 6, 2021, NCR completed its acquisition of Freshop, Inc., for which we purchased all outstanding shares and as a result Freshop will become a wholly-owned subsidiary of NCR in the first quarter of 2021. Freshop is a leading provider of digital online ordering platforms which provides retailers the ability to quickly deploy "buy-online, pickup-in-store" capabilities.

*Completed acquisition of Terafina* On February 5, 2021, NCR completed its acquisition of Terafina, Inc., for which we purchased all outstanding shares and as a result Terafina will become a wholly-owned subsidiary of NCR in the first quarter of 2021. Terafina is a leading solution provider for customer account opening and onboarding across digital, branch and call center channels.

**Basis of Consolidation** The consolidated financial statements include the accounts of NCR and its majority-owned subsidiaries. Long-term investments in affiliated companies in which NCR owns between 20% and 50%, and therefore, exercises significant influence, but which it does not control, are accounted for using the equity method. Investments in which NCR does not exercise significant influence (generally, when NCR has an investment of less than 20% and no significant influence, such as representation on the investee's board of directors) are accounted for using the cost method. All significant inter-company transactions and accounts have been eliminated. In addition, the Company is required to determine whether it is the primary beneficiary of economic income or losses that may be generated by variable interest entities in which the Company has such an interest. In circumstances where the Company determined it is the primary beneficiary, consolidation of that entity would be required. For the periods presented, no variable interest entities have been consolidated.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

**Reclassifications** Certain prior-period amounts have been reclassified in the accompanying Consolidated Financial Statements and Notes thereto in order to conform to the current period presentation.

**Revenue Recognition** The Company records revenue, net of sales tax, when the following five steps have been completed:

- Identification of the contract(s) with a customer
- Identification of the performance obligation(s) in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, we satisfy performance obligations

The Company records revenue when, or as, performance obligations are satisfied by transferring control of a promised good or service to the customer, in an amount that reflects the consideration we expect to be entitled to in exchange for products and services. The Company evaluates the transfer of control primarily from the customer's perspective where the customer has the ability to direct the use of and obtain substantially all of the remaining benefits from that good or service.

NCR enters contracts that include multiple distinct performance obligations, including hardware, software, professional consulting services, installation services and maintenance support services. A promise to a customer is considered distinct when the product or service is both capable of being distinct, and distinct in the context of the contract. For these arrangements, the Company allocates the transaction price, at contract inception, to each distinct performance obligation on a relative standalone selling price basis. The primary method used to estimate standalone selling price is the price that the Company charges for that good or service when the Company sells it separately in similar circumstances to similar customers.

For hardware products, control is generally transferred when the customer has the ability to direct the use of and obtain substantially all of the remaining benefits of the products, which generally coincides with when the customer has assumed title and risk of loss of the goods sold. In certain instances, customer acceptance is required prior to the passage of title and risk of loss of the delivered products. In such cases, revenue is not recognized until customer acceptance is obtained. Delivery, acceptance, and transfer of title and risk of loss generally occur in the same reporting period. NCR's customers may request that delivery and passage of title and risk of loss occur on a bill and hold basis. For the period ending December 31, 2020 and 2019, the revenue recognized from bill and hold transactions approximated 1% of total revenue. Hardware products may also be provided as a service when included in a package sold with software and services. In these instances, revenue is recognized in accordance with the lease accounting standard and depending on the terms and conditions included in the contract may be either sales-type leases or operating leases. Revenue from hardware sales-type leases is recognized at the beginning of the lease term and revenue from operating leases is recognized on a straight-line basis over the term of the contract.

Software products may be sold as perpetual licenses, term-based licenses, cloud-enabled and software as a service (SaaS). Perpetual license revenue is recognized at a point in time when control transfers to the customer and reported within product revenue. Control is typically transferred when the customer takes possession of, or has access to, the software. Term-based license revenue is recognized at a point in time upon the commencement of the committed term of the contract, concurrent with the possession of the license, and reported within product revenue. The committed term of the contract is typically one month to one year due to customer termination rights. If the amount of consideration the Company expects to be paid in exchange for the licenses depends on customer usage, revenue is recognized when the usage occurs.

Software as a service primarily consists of fees to provide our customers access to our platform and cloud-based applications for a specified contract term. Revenue from SaaS contracts is recognized as variable consideration directly allocated based on customer usage or on a ratable basis over the contract term beginning on the date that our service is made available to the customer. SaaS is reported as part of our services revenue.

The Company sells some product solutions that include a combination of cloud-enabled and on-premise term-based software licenses for a specified contract term. Significant judgment is required to determine if the services and products represent distinct promises to the customer or if they should be combined into one performance obligation. When they are combined into one performance obligation, revenue is recognized ratably over the contract term for which the service is provided.

In addition to SaaS, our services revenue includes professional consulting, installation and maintenance support. Professional consulting primarily consists of software implementation, integration, customization and optimization services. Revenue from professional consulting contracts is recognized when the services are completed or customer acceptance of the service is



**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

received, if required. For installation and maintenance, control is transferred as the services are provided or ratably over the service period, or, if applicable, after customer acceptance of the service. We apply the ‘as invoiced’ practical expedient, for performance obligations satisfied over time, if the amount we may invoice corresponds directly with the value to the customer of the Company’s performance to date. This expedient permits us to recognize revenue in the amount we invoice the customer.

The nature of our arrangements gives rise to several types of variable consideration including service level agreement credits, stock rotation rights, trade-in credits and volume-based rebates. At contract inception, we include this variable consideration in our transaction price when there is a basis to reasonably estimate the amount of the fee and it is probable there will not be a significant reversal. These estimates are generally made using the expected value method and a portfolio approach, based on historical experience, anticipated performance and our best judgment at the time. These estimates are reassessed at each reporting date. Because of our confidence in estimating these amounts, they are included in the transaction price of our contracts and the associated remaining performance obligations.

Payment terms with our customers are established based on industry and regional practices and generally do not exceed 30 days. We do not typically include extended payment terms in our contracts with customers. As a practical expedient, we do not adjust the promised amount of consideration for the effects of a significant financing component when we expect, at contract inception, that the period between our transfer of a promised product or service to a customer and when the customer pays for that product or service will be one year or less. If the period between transfer of the promised product or service and payment is more than one year, the Company analyzes whether a significant financing component is present. If so, the Company adjusts the total consideration to reflect the significant financing component.

The Company also does not adjust the transaction price for taxes collected from customers, as those amounts are netted against amounts remitted to government authorities.

We account for shipping and handling activities related to contracts with customers as costs to fulfill our promise to transfer the associated products, rather than as a separate performance obligation. Accordingly, we record amounts billed for shipping and handling costs as a component of net product sales, and classify such costs as a component of cost of products.

In addition to the standard product warranty, the Company periodically offers extended warranties to its customers in the form of product maintenance services. For maintenance contracts that have been combined with product contracts under the revenue guidance, the Company defers revenue at an amount based on the relative standalone selling price allocation, and recognizes the deferred revenue over the service term. For non-combined maintenance contracts, NCR defers the stated amount of the separately priced service and recognizes the deferred revenue over the service term.

**Remaining Performance Obligations** Remaining performance obligations represent the transaction price of orders for which products have not been delivered or services have not been performed. As of December 31, 2020, the aggregate amount of the transaction price allocated to remaining performance obligations was approximately \$3.6 billion. The Company expects to recognize revenue on approximately three-quarters of the remaining performance obligations over the next 12 months, with the remainder recognized thereafter. The majority of our professional services are expected to be recognized over the next 12 months but this is contingent upon a number of factors, including customers’ needs and schedules.

The Company has made two elections which affect the value of remaining performance obligations described above. We do not disclose remaining performance obligations for SaaS contracts where variable consideration is directly allocated based on usage or when the original expected length is one year or less.

**Warranty and Sales Returns** Provisions for product warranties and sales returns and allowances are recorded in the period in which NCR becomes obligated to honor the related right, which generally is the period in which the related product revenue is recognized. The Company accrues warranty reserves based upon historical factors such as labor rates, average repair time, travel time, number of service calls per machine and cost of replacement parts. When a sale is consummated, a warranty reserve is recorded based upon the estimated cost to provide the service over the warranty period. The Company accrues sales returns and allowances using percentages of revenue to reflect the Company’s historical average of sales return claims.

**Research and Development Costs** Research and development costs primarily include payroll and benefit-related costs, contractor fees, facilities costs, infrastructure costs, and administrative expenses directly related to research and development support and are expensed as incurred, except certain software development costs are capitalized after technological feasibility of the software is established.

**Advertising** Advertising costs are recognized in selling, general and administrative expenses when incurred.

**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

**Stock-based Compensation** Stock-based compensation represents the costs related to share-based awards granted to employees and non-employee directors. The Company's outstanding stock-based compensation awards are classified as equity. The Company measures stock-based compensation cost at the grant date, based on the estimated fair value of the award and recognizes the cost over the requisite service period. See Note 7, "Stock Compensation Plans" for further information on NCR's stock-based compensation plans.

**Income Taxes** Income tax expense is provided based on income before income taxes. Deferred income taxes reflect the impact of temporary differences between assets and liabilities recognized for financial reporting purposes and such amounts recognized for tax purposes. These deferred taxes are determined based on the enacted tax rates expected to apply in the periods in which the deferred assets or liabilities are expected to be settled or realized. NCR records valuation allowances related to its deferred income tax assets when it is more likely than not that some portion or all of the deferred income tax assets will not be realized.

The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being sustained upon examination by authorities. Interest and penalties related to uncertain tax positions are recognized as part of the provision for income taxes and are accrued beginning in the period that such interest and penalties would be applicable under relevant tax law and until such time that the related tax benefits are recognized.

**Earnings Per Share** Basic earnings per share (EPS) is calculated by dividing net income, less any dividends, accretion or decretion, redemption or induced conversion on our Series A Convertible Preferred Stock, by the weighted average number of shares outstanding during the reported period.

In computing diluted EPS, we evaluate and reflect the maximum potential dilution, for each issue or series of issues of potential common shares in sequence from the most dilutive to the least dilutive. We adjust the numerator used in the basic EPS computation, subject to anti-dilution requirements, to add back the dividends (declared or cumulative undeclared) applicable to the Series A Convertible Preferred Stock. Such add-back would also include any adjustments to equity in the period to accrete the Series A Convertible Preferred Stock to its redemption price, or recorded upon a redemption or induced conversion. We adjust the denominator used in the basic EPS computation, subject to anti-dilution requirements, to include the dilution from potential shares resulting from the issuance of the Series A Convertible Preferred Stock, restricted stock units, and stock options.

The holders of Series A Convertible Preferred Stock and unvested restricted stock units do not have nonforfeitable rights to common stock dividends or common stock dividend equivalents. Accordingly, the Series A Convertible Preferred Stock and unvested restricted stock units do not qualify as participating securities. See Note 7, "Stock Compensation Plans" for share information on NCR's stock compensation plans.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

The components of basic earnings (loss) per share are as follows:

In millions, except per share amounts	Year ended December 31		
	2020	2019	2018
<b>Numerator:</b>			
Income (loss) from continuing operations	\$ (7)	\$ 614	\$ (36)
Series A convertible preferred stock dividends	(31)	(110)	(49)
<b>Net income (loss) from continuing operations attributable to NCR common stockholders</b>	<b>(38)</b>	504	(85)
Loss from discontinued operations, net of tax	(72)	(50)	(52)
<b>Net income (loss) attributable to NCR common stockholders</b>	<b>\$ (110)</b>	\$ 454	\$ (137)
<b>Denominator:</b>			
Basic weighted average number of shares outstanding	128.4	122.1	118.4
<b>Basic earnings (loss) per share:</b>			
From continuing operations	\$ (0.30)	\$ 4.13	\$ (0.72)
From discontinued operations	(0.56)	(0.41)	(0.44)
<b>Total basic earnings (loss) per share</b>	<b>\$ (0.86)</b>	\$ 3.72	\$ (1.16)

The components of diluted earnings (loss) per share are as follows:

In millions, except per share amounts	Year ended December 31		
	2020	2019	2018
<b>Numerator:</b>			
Income (loss) from continuing operations	\$ (7)	\$ 614	\$ (36)
Series A convertible preferred stock dividends	(31)	(76)	(49)
<b>Net income (loss) from continuing operations attributable to NCR common stockholders</b>	<b>(38)</b>	538	(85)
Loss from discontinued operations, net of tax	(72)	(50)	(52)
<b>Net income (loss) attributable to NCR common stockholders</b>	<b>\$ (110)</b>	\$ 488	\$ (137)
<b>Denominator:</b>			
Basic weighted average number of shares outstanding	128.4	122.1	118.4
Dilutive effect of as-if Series A Convertible Preferred Stock	—	19.5	—
Dilutive effect of employee stock options and restricted stock units	—	3.6	—
<b>Weighted average diluted shares</b>	<b>128.4</b>	145.2	118.4
<b>Diluted earnings (loss) per share:</b>			
From continuing operations	\$ (0.30)	\$ 3.71	\$ (0.72)
From discontinued operations	(0.56)	(0.35)	(0.44)
<b>Total diluted earnings (loss) per share</b>	<b>\$ (0.86)</b>	\$ 3.36	\$ (1.16)

For 2020, due to the net loss attributable to NCR common stockholders, potential common shares that would cause dilution, such as Series A Convertible Preferred Stock, restricted stock units and stock options, have been excluded from the diluted share count because their effect would be anti-dilutive. The weighted average outstanding shares of common stock were not adjusted by 9.1 million for the as-if converted Series A Convertible Preferred Stock because the effect would be anti-dilutive. Refer to Note 11, "Series A Convertible Preferred Stock" for additional discussion related to the transaction impacting the

**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

Series A Convertible Preferred Stock. Additionally, for 2020, weighted average restricted stock units and stock options of 11.2 million were excluded from the diluted share count because their effect would have been anti-dilutive.

For 2019, it is more dilutive to assume the portion of the Series A Convertible Preferred Stock that was redeemed was not converted to common stock. Therefore, weighted average outstanding shares of common stock were not adjusted by 5.7 million for the as-if converted Series A Convertible Preferred Stock that was redeemed because the effect would be anti-dilutive. Refer to Note 11, "Series A Convertible Preferred Stock" for additional discussion related to the transaction impacting the Series A Convertible Preferred Stock. Additionally, for 2019, weighted average restricted stock units and stock options of 4.3 million were excluded from the diluted share count because their effect would have been anti-dilutive.

For 2018, due to the net loss attributable to NCR common stockholders, potential common shares that would cause dilution, such as Series A Convertible Preferred Stock, restricted stock units and stock options, have been excluded from the diluted share count because their effect would be anti-dilutive. The weighted average outstanding shares of common stock were not adjusted by 28.3 million for the as-if converted Series A Convertible Preferred Stock because the effect would be anti-dilutive. Additionally, for 2018, weighted average restricted stock units and stock options of 5.6 million were excluded from the diluted share count because their effect would have been anti-dilutive.

**Cash and Cash Equivalents** All short-term, highly liquid investments having original maturities of three months or less, including time deposits, are considered to be cash equivalents. The Company has restricted cash on deposit with a bank as collateral for letters of credit, funds held for clients as well as cash included in settlement processing assets.

The reconciliation of cash, cash equivalents and restricted cash in the Consolidated Statements of Cash Flows is as follows:

In millions	Balance Sheet Location	December 31, 2020	December 31, 2019	December 31, 2018
Cash and cash equivalents	Cash and cash equivalents	\$ 338	\$ 509	\$ 464
Restricted cash	Other assets	9	7	12
Funds held for client	Other current assets	44	32	46
Cash included in settlement processing assets	Other current assets	15	15	10
<b>Total cash, cash equivalents and restricted cash</b>		<b>\$ 406</b>	<b>\$ 563</b>	<b>\$ 532</b>

**Accounts Receivable, net** Accounts receivable, net includes amounts billed and currently due from customers as well as amounts unbilled that typically result from sales under contracts where revenue recognized exceeds the amount billed to the customer and where the Company has an unconditional right to consideration. The amounts due are stated at their net estimated realizable value.

**Allowance for Credit Losses on Accounts Receivable** Allowances for credit losses on accounts receivable are recognized when reasonable and supportable forecasts affect the expected collectability. This requires us to make our best estimate of the current expected losses inherent in our accounts receivable at each balance sheet date. These estimates require consideration of historical loss experience, adjusted for current conditions, forward looking indicators, trends in customer payment frequency and judgments about the probable effects of relevant observable data, including present and future economic conditions and the financial health of specific customers and market sectors. This policy is applied consistently among all of our operating segments.

Our allowance for credit losses as of December 31, 2020 and January 1, 2020 was \$51 million and \$44 million, respectively. For the year ended December 31, 2020, our allowance for credit losses charged to expense was \$33 million. We increased our allowance for credit losses in the year ended December 31, 2020 by \$10 million based upon current forecasts that reflect increased economic uncertainty resulting from the COVID-19 pandemic. The Company recorded \$26 million of write-offs against the reserve for the year ended December 31, 2020.

**Inventories** Inventories are stated at the lower of cost or net realizable value, using the average cost method. Cost includes materials, labor and manufacturing overhead related to the purchase and production of inventories. Service parts are included in inventories and include reworkable and non-reworkable service parts. The Company regularly reviews inventory quantities on hand, future purchase commitments with suppliers and the estimated utility of inventory. If the review indicates a reduction in utility below carrying value, inventory is reduced to a new cost basis. Excess and obsolete write-offs are established based on forecasted usage, orders, technological obsolescence and inventory aging.

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

**Contract Assets and Liabilities** Contract assets include unbilled amounts where right to payment is not solely subject to the passage of time. Amounts may not exceed their net realizable value. Contract liabilities consist of advance payments, billings in excess of revenue recognized and deferred revenue.

Our contract assets and liabilities are reported in a net position on a contract-by-contract basis at the end of each reporting period. If the net position is a contract asset, the current portion is included in other current assets and the non-current portion is included in other assets in the Consolidated Balance Sheet. If the net position is a contract liability, the current portion is included in contract liabilities and the non-current portion is included in other liabilities in the Consolidated Balance Sheet.

The following table presents the net contract asset and contract liability balances:

In millions	Location in the Consolidated Balance Sheet	December 31, 2020	December 31, 2019
Current portion of contract assets	Other current assets	\$ —	\$ 9
Current portion of contract liabilities	Contract liabilities	\$ 507	\$ 502
Non-current portion of contract liabilities	Other liabilities	\$ 80	\$ 81

During the twelve months ended December 31, 2020 and 2019, the Company recognized \$407 million and \$341 million, respectively, in revenue that was included in contract liabilities as of January 1, 2019 and 2018, respectively.

**Deferred Commissions** Our incremental costs of obtaining a contract, which consist of certain sales commissions, primarily for our SaaS revenue, are deferred and amortized on a straight-line basis over the period of expected benefit. We determined the period of expected benefit by taking into consideration customer contracts, the estimated life of the customer relationship, including renewals when the renewal commission is not commensurate with the initial commission, the expected life of the underlying technology and other factors. We classify deferred commissions as current or non-current based on the timing of when we expect to recognize the expense. The current and non-current portions of deferred commissions are included in other current assets and other assets, respectively, in the Consolidated Balance Sheets. Amortization of deferred commissions is included in selling, general and administrative expenses in the Consolidated Statements of Operations.

**Set-up Fees and Costs** Fees for the design, configuration, implementation and installation related to the software applications that are provided as a service are recognized over the contract term, which is generally 5 years. The related costs incurred that are determined to be incremental and recoverable contract-specific costs are deferred and amortized over the period of benefit, which is generally 7 years.

**Settlement Processing Assets and Obligations** Funds settlement refers to the process of transferring funds for sales and credits between card issuers and merchants. Depending on the type of transaction, either the credit card interchange system or the debit network is used to transfer the information and funds between the sponsoring bank and card issuing bank to complete the link between merchants and card issuers. In certain of our processing arrangements, merchant funding primarily occurs after the sponsoring bank receives the funds from the card issuer through the card networks, creating a net settlement obligation on the Company's Consolidated Balance Sheet. In a limited number of other arrangements, the sponsoring bank funds the merchants before it receives the net settlement funds from the card networks, creating a net settlement asset on the Company's Consolidated Balance Sheet. Additionally, certain of the Company's sponsoring banks collect the gross revenue from the merchants, pay the interchange fees and assessments to the credit card associations, collect their fees for processing and pay the Company a net residual payment representing the Company's fees for the services. In these instances, the Company does not reflect the related settlement processing assets and obligations in its Consolidated Balance Sheet.

Settlement processing assets consist of our portion of settlement assets due from customers and receivables from merchants for the portion of the discount fee related to reimbursement of the interchange expense, our receivable from the processing bank for transactions we have funded merchants in advance of receipt of card association funding, restricted cash balances that are not yet due to merchants, merchant reserves held, sponsoring bank reserves and exception items, such as customer chargeback amounts receivable from merchants. Settlement processing obligations consist primarily of merchant reserves, our liability to the processing bank for transactions for which we have received funding from the members but have not funded merchants and exception items. Settlement processing assets are recorded within other current assets and settlement processing liabilities are recorded within other current liabilities in the Consolidated Balance Sheet. As of December 31, 2020 and 2019, settlement processing assets were \$33 million and \$33 million, respectively, and settlement processing liabilities were \$31 million and \$31 million, respectively.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

million, respectively. Settlement receivables are generally collected within four business days. Settlement obligations are generally paid within three business days, regardless of when the related settlement receivables are collected.

**Capitalized Software** Certain direct development costs associated with internal-use software are capitalized within other assets and amortized over the estimated useful lives of the resulting software. NCR typically amortizes capitalized internal-use software on a straight-line basis over four to seven years beginning when the asset is substantially ready for use, as this is considered to approximate the usage pattern of the software. When it becomes probable that internal-use software being developed will not be completed or placed into service, the internal-use software is reported at the lower of the carrying amount or fair value.

Costs incurred for the development of software that will be sold, leased or otherwise marketed are capitalized when technological feasibility has been established. These costs are included within other assets and are amortized on a sum-of-the-years' digits or straight-line basis over the estimated useful lives ranging from three to five years, using the method that most closely approximates the sales pattern of the software. Amortization begins when the product is available for general release. Costs capitalized include direct labor and related overhead costs. Costs incurred prior to technological feasibility or after general release are expensed as incurred. NCR performs periodic reviews to ensure that unamortized program costs remain recoverable from future revenue. If future revenue does not support the unamortized program costs, the amount by which the unamortized capitalized cost of a software product exceeds the net realizable value is written off.

The following table identifies the activity relating to total capitalized software:

In millions	2020	2019	2018
Beginning balance as of January 1	\$ 413	\$ 325	\$ 366
Capitalization	232	238	170
Amortization	(171)	(148)	(160)
Impairment	(32)	(2)	(51)
Ending balance as of December 31	<u>\$ 442</u>	<u>\$ 413</u>	<u>\$ 325</u>

During the year ended December 31, 2020 and 2018, we recorded the write-off of certain internal- and external-use software capitalization projects that are no longer considered strategic and as a result, the projects have been abandoned.

**Goodwill and Other Intangible Assets** Goodwill represents the excess of purchase price over the fair value of the net tangible and identifiable intangible assets of businesses acquired. Goodwill is tested at the reporting unit level for impairment on an annual basis during the fourth quarter or more frequently if certain events occur indicating that the carrying value of goodwill may be impaired. A significant amount of judgment is involved in determining if an indicator of impairment has occurred. Such indicators may include a decline in expected cash flows, a significant adverse change in legal factors or in the business climate, a decision to sell a business, unanticipated competition, or slower growth rates, among others.

In the evaluation of goodwill for impairment, we have the option to perform a qualitative assessment to determine whether further impairment testing is necessary or to perform a quantitative assessment by comparing the fair value of a reporting unit to its carrying amount, including goodwill. Under the qualitative assessment, an entity is not required to calculate the fair value of a reporting unit unless the entity determines that it is more likely than not that its fair value is less than its carrying amount. If under the quantitative assessment the fair value of a reporting unit is less than its carrying amount, then the amount of the impairment loss, if any, is determined based on the amount by which the carrying amount exceeds the fair value up to the total value of goodwill assigned to the reporting unit. Fair values of the reporting units are estimated using a weighted methodology considering the output from both the income and market approaches. The income approach incorporates the use of discounted cash flow (DCF) analysis. A number of significant assumptions and estimates are involved in the application of the DCF model to forecast operating cash flows, including revenue growth, operating income margin and discount rate. Several of these assumptions vary among reporting units. The cash flow forecasts are generally based on approved strategic operating plans. The market approach is performed using the Guideline Public Companies (GPC) method which is based on earnings multiple data. We perform a reconciliation between our market capitalization and our estimate of the aggregate fair value of the reporting units, including consideration of a control premium. Refer to Note 2, "Goodwill and Purchased Intangible Assets" for further discussion.

Acquired intangible assets other than goodwill are amortized over their weighted average amortization period unless they are determined to be indefinite. Acquired intangible assets are carried at cost, less accumulated amortization. For intangible assets

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

purchased in a business combination, the estimated fair values of the assets received are used to establish the carrying value. The fair value of acquired intangible assets is determined using common techniques, and the Company employs assumptions developed using the perspective of a market participant.

**Property, Plant and Equipment** Property, plant and equipment and leasehold improvements are stated at cost less accumulated depreciation. Depreciation is computed over the estimated useful lives of the related assets primarily on a straight-line basis. Machinery and other equipment are depreciated over 3 to 20 years and buildings over 25 to 45 years. Leasehold improvements are depreciated over the life of the lease or the asset, whichever is shorter. Assets classified as held for sale are not depreciated. Upon retirement or disposition of property, plant and equipment, the related cost and accumulated depreciation or amortization are removed from the Company's accounts, and a gain or loss is recorded. Depreciation expense related to property, plant and equipment was \$88 million, \$79 million, and \$81 million for the years ended December 31, 2020, 2019, and 2018, respectively.

**Valuation of Long-Lived Assets** Long-lived assets such as property, plant and equipment and finite-lived intangible assets are reviewed for impairment when events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable or in the period in which the held for sale criteria are met. For assets held and used, this analysis consists of comparing the asset's carrying value to the expected future cash flows to be generated from the asset on an undiscounted basis. If the carrying amount of the asset is determined not to be recoverable, a write-down to fair value is recorded. Fair values are determined based on quoted market values, discounted cash flows, or external appraisals, as applicable. Long-lived assets are reviewed for impairment at the individual asset or the asset group level for which the lowest level of independent cash flows can be identified. Refer to Note 2, "Goodwill and Purchased Intangible Assets" for further discussion.

**Leasing** We adopted the new leasing standard using the modified retrospective approach with an effective date of January 1, 2019. Periods prior to 2019 were not recast under the new standard and, therefore, those amounts are not presented in Note 10, "Leasing".

**Lessee** We lease property, vehicles and equipment under operating and financing leases. For leases with terms greater than 12 months, we record the related asset and obligation at the present value of lease payments over the term. We determine the lease term by assuming the exercise of renewal options that are reasonably certain. Leases with a lease term 12 months or less at inception are not recorded on our Consolidated Balance Sheet and are expensed on a straight-line basis over the lease term in our Consolidated Statement of Operations. Our leases may include rental escalation clauses, renewal options and/or termination options that are factored into our determination of lease payments when appropriate. When available, we use the rate implicit in the lease to discount lease payments to present value; however, most of our leases do not provide a readily determinable implicit rate. Therefore, we must estimate our incremental borrowing rate to discount the lease payments based on information available at lease commencement. Our incremental borrowing rate is based on a credit-adjusted risk-free rate at commencement date, which best approximates a secured rate over a similar term of lease. Additionally, we do not separate lease and non-lease components for any asset classes, except for those leases embedded in certain service arrangements. Fixed and in-substance fixed payments are included in the recognition of the operating and financing assets and lease liabilities, however, variable lease payments, other than those based on a rate or index, are recognized in the Consolidated Statements of Operations in the period in which the obligation for those payments is incurred. The Company's variable lease payments generally relate to payments tied to various indices, non-lease components and payments above a contractual minimum fixed payment.

**Lessor** We have various arrangements for certain point-of-sale equipment under which we are the lessor. These leases meet the criteria for operating lease classification. Lease income associated with these leases is not material.

**Pension, Postretirement and Postemployment Benefits** NCR has significant pension, postretirement and postemployment benefit costs, which are developed from actuarial valuations. Actuarial assumptions are established to anticipate future events and are used in calculating the expense and liabilities relating to these plans. These factors include assumptions the Company makes about interest rates, expected investment return on plan assets, rate of increase in healthcare costs, involuntary turnover rates, and rates of future compensation increases. In addition, NCR also uses subjective factors, such as withdrawal rates and mortality rates to develop the Company's valuations. NCR generally reviews and updates these assumptions on an annual basis. NCR is required to consider current market conditions, including changes in interest rates, in making these assumptions. The actuarial assumptions that NCR uses may differ materially from actual results due to changing market and economic conditions, higher or lower withdrawal rates, or longer or shorter life spans of participants. These differences may result in a significant impact to the amount of pension, postretirement or postemployment benefits expense, and the related assets and liabilities, the Company has recorded or may record.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

**Environmental and Legal Contingencies** In the normal course of business, NCR is subject to various proceedings, lawsuits, claims and other matters, including, for example, those that relate to the environment and health and safety, labor and employment, employee benefits, import/export compliance, intellectual property, data privacy and security, product liability, commercial disputes and regulatory compliance, among others. Additionally, NCR is subject to diverse and complex laws, regulations, and standards including those relating to corporate governance, public disclosure and reporting, environmental safety and the discharge of materials into the environment, product safety, import and export compliance, data privacy and security, antitrust and competition, government contracting, anti-corruption, and labor and human resources, which are rapidly changing and subject to many possible changes in the future. Compliance with these laws and regulations, including changes in accounting standards, taxation requirements, and federal securities laws among others, may create a substantial burden on, and substantially increase the costs to NCR or could have an impact on NCR's future operating results. NCR believes that the amounts provided in its Consolidated Financial Statements are adequate in light of the probable and estimable liabilities. However, there can be no assurances that the actual amounts required to satisfy alleged liabilities from various lawsuits, claims, legal proceedings and other matters, including the Fox River and Kalamazoo River environmental matters discussed in Note 9, "Commitments and Contingencies" and to comply with applicable laws and regulations, will not exceed the amounts reflected in NCR's Consolidated Financial Statements or will not have a material adverse effect on the Company's consolidated results of operations, financial condition or cash flows. Any costs that may be incurred in excess of those amounts provided as of December 31, 2020 cannot currently be reasonably determined or are not currently considered probable.

Legal fees and expenses related to loss contingencies are typically expensed as incurred, except for certain costs associated with NCR's environmental remediation obligations. Costs and fees associated with litigating the extent and type of required remedial actions and the allocation of remediation costs among potentially responsible parties are typically included in the measurement of the environmental remediation liabilities.

**Foreign Currency** For many NCR international operations, the local currency is designated as the functional currency. Accordingly, assets and liabilities are translated into U.S. Dollars at year-end exchange rates, and revenue and expenses are translated at average exchange rates prevailing during the year. Currency translation adjustments from local functional currency countries resulting from fluctuations in exchange rates are recorded in other comprehensive income. Remeasurement adjustments are recorded in other income (expense), net.

**Derivative Instruments** In the normal course of business, NCR enters into various financial instruments, including derivative financial instruments. The Company accounts for derivatives as either assets or liabilities in the Consolidated Balance Sheets at fair value and recognizes the resulting gains or losses as adjustments to earnings or other comprehensive income. For derivative instruments that are designated and qualify as hedging instruments, the Company formally documents the relationship between hedging instruments and hedged items, as well as the risk management objective and strategy for undertaking various hedge transactions. Hedging activities are transacted only with highly rated institutions, reducing exposure to credit risk in the event of nonperformance. Additionally, the Company completes assessments related to the risk of counterparty nonperformance on a regular basis.

The accounting for changes in fair value of a derivative instrument depends on whether it has been designated and qualifies as part of a hedging relationship, and further, on the type of hedging relationship. For those derivative instruments that are designated and qualify as hedging instruments, the Company has designated the hedging instrument, based on the exposure being hedged, as a fair value hedge, a cash flow hedge or a hedge of a net investment in a foreign operation. For derivative instruments designated as fair value hedges, the effective portion of the hedge is recorded as an offset to the change in the fair value of the hedged item, and the ineffective portion of the hedge, if any, is recorded in the Consolidated Statement of Operations. For derivative instruments designated as cash flow hedges and determined to be highly effective, the gains or losses are deferred in other comprehensive income and recognized in the determination of income as adjustments of carrying amounts when the underlying hedged transaction is realized, canceled or otherwise terminated. When hedging certain foreign currency transactions of a long-term investment nature (net investments in foreign operations) gains and losses are recorded in the currency translation adjustment component of accumulated other comprehensive loss. Gains and losses on foreign exchange contracts that are not used to hedge currency transactions of a long-term investment nature, or that are not designated as cash flow or fair value hedges, are recognized in other (expense), net as exchange rates change.

**Fair Value of Assets and Liabilities** Fair value is defined as an exit price, representing an amount that would be received to sell an asset or the amount paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based measurement determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the guidance prioritizes the inputs used to measure fair value into the following three-tier fair value hierarchy:



**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

- Level 1: Unadjusted quoted prices in active markets for identical assets or liabilities
- Level 2: Unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active or inputs, other than quoted prices in active markets, that are observable either directly or indirectly
- Level 3: Unobservable inputs for which there is little or no market data

Assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurements. The Company reviews the fair value hierarchy classification on a quarterly basis. Changes to the observability of valuation inputs may result in a reclassification of levels for certain securities within the fair value hierarchy.

NCR measures its financial assets and financial liabilities at fair value based on one or more of the following three valuation techniques:

- Market approach: Prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities.
- Cost approach: Amount that would be required to replace the service capacity of an asset (replacement cost).
- Income approach: Techniques to convert future amounts to a single present amount based upon market expectations (including present value techniques, option pricing and excess earnings models).

We regularly review our investments to determine whether a decline in fair value, if any, below the cost basis is other than temporary. If the decline in the fair value is determined to be other than temporary, the cost basis of the security is written down to fair value and the amount of the write-down is included in the Consolidated Statement of Operations. For qualifying investments in debt or equity securities, a temporary impairment charge would be recognized in other comprehensive income (loss).

### **Recent Accounting Pronouncements**

#### *Issued*

In August 2020, the Financial Accounting Standards Board ("FASB") issued an accounting standards update with new guidance for convertible preferred stock, which eliminates considerations related to the beneficial conversion feature model. The standard also requires an average stock price when calculating the denominator for diluted earnings per share to be used for stock units where the settlement of the number of shares is based on the stock price. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2021. Early adoption is permitted no earlier than fiscal years beginning after December 15, 2020 and interim periods within those fiscal years. The adoption of this accounting standards update is not expected to have a material effect on the Company's net income, cash flows, earnings per share or financial condition.

#### *Adopted*

In June 2016, the FASB issued an accounting standards update with new guidance on accounting for credit losses on financial instruments. The new guidance includes an impairment model for estimating credit losses that is based on expected losses, rather than incurred losses. This accounting standards update is effective prospectively for fiscal years and interim periods beginning after December 15, 2019, with early adoption permitted. The adoption of this accounting standards update did not have a material effect on the Company's net income, cash flows or financial condition.

In August 2018, the FASB issued an accounting standards update with new guidance on fair value measurement disclosure requirements that requires the disclosure of additions to and transfers into and out of Level 3 of the fair value hierarchy. This accounting standards update also requires disclosure about the uncertainty in measurement as of the reporting date. The new standard became effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019 with early adoption permitted. The adoption of this accounting standards update did not have a material impact on the financial statement disclosures.

In August 2018, the FASB issued an accounting standards update related to accounting for implementation costs incurred in a cloud computing arrangement that is also a service contract. If a cloud computing arrangement also includes an internal-use

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

software, an intangible asset is recognized, and a liability is recognized for any payments related to the software license. However, if a cloud computing arrangement does not include a software license, the entity should account for the arrangement as a service contract and any fees associated with the service are expensed as incurred. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019, with early adoption permitted. The adoption of this accounting standards update did not have a material effect on the Company's net income, cash flows or financial condition.

In December 2019, the FASB issued an accounting standards update with new guidance that removes certain exceptions for recognizing deferred taxes for investments, performing intraperiod allocation and calculating income taxes in interim periods. This accounting standards update also adds guidance to reduce complexity in certain areas, including recognizing measures for the accounting for income taxes. This accounting standards update is effective for fiscal years and interim periods beginning after December 15, 2020, with early adoption permitted. The adoption of this accounting standards update did not have a material impact on the Company's net income, cash flows or financial condition.

In March 2020, the SEC adopted final rules, effective January 4, 2021, that, among other things, amend the financial disclosure requirements of Regulation S-X under the Securities Act for guaranteed securities registered with the SEC. As permitted by such rules, the Company is voluntarily complying with the rules in advance of the effective date. Accordingly, we are no longer required to provide, and are not providing, supplemental guarantor information for NCR International, Inc.'s SEC registered guarantee of the 5.00% and 6.375% senior unsecured notes given that NCR International, Inc.'s reporting obligations with respect to guarantees under Section 15(d) of the Exchange Act have been automatically suspended.

## 2. GOODWILL AND PURCHASED INTANGIBLE ASSETS

*Goodwill by Segment* The carrying amounts of goodwill by segment as of December 31, 2020, 2019, and 2018 are included in the tables below. Foreign currency fluctuations are included within other adjustments.

In millions	December 31, 2019						December 31, 2020		
	Goodwill	Accumulated Impairment Losses	Total	Additions	Impairment	Other	Goodwill	Accumulated Impairment Losses	Total
Banking	\$ 1,774	\$ (101)	\$ 1,673	\$ —	\$ —	\$ (2)	\$ 1,772	\$ (101)	\$ 1,671
Retail	638	(34)	604	—	—	5	643	(34)	609
Hospitality	402	(23)	379	1	—	1	404	(23)	381
T&T	187	(11)	176	—	—	—	187	(11)	176
<b>Total goodwill</b>	<b>\$ 3,001</b>	<b>\$ (169)</b>	<b>\$ 2,832</b>	<b>\$ 1</b>	<b>\$ —</b>	<b>\$ 4</b>	<b>\$ 3,006</b>	<b>\$ (169)</b>	<b>\$ 2,837</b>

In millions	December 31, 2018						December 31, 2019		
	Goodwill	Accumulated Impairment Losses	Total	Additions	Impairment	Other	Goodwill	Accumulated Impairment Losses	Total
Banking	\$ 1,718	\$ (101)	\$ 1,617	\$ 54	\$ —	\$ 2	\$ 1,774	\$ (101)	\$ 1,673
Retail	571	(34)	537	67	—	—	638	(34)	604
Hospitality	385	(23)	362	17	—	—	402	(23)	379
T&T	187	(11)	176	—	—	—	187	(11)	176
<b>Total goodwill</b>	<b>\$ 2,861</b>	<b>\$ (169)</b>	<b>\$ 2,692</b>	<b>\$ 138</b>	<b>\$ —</b>	<b>\$ 2</b>	<b>\$ 3,001</b>	<b>\$ (169)</b>	<b>\$ 2,832</b>

In early 2020, there was significant market volatility driven by the COVID-19 pandemic that resulted in uncertainty around our full year revenue and operating income expectations. As a result, we withdrew our full year outlook for 2020 on March 31, 2020, which was previously provided during our fourth quarter 2019 earnings conference call on February 11, 2020. Given the rapidly changing environment, we considered if there was an indication the carrying value of net assets were in excess of the fair value for each of our reporting units. This consideration included the expected impacts to the current year cash flows, the potential impacts to future cash flows as well as the excess of the fair value over the carrying value from the prior year annual assessment. As a result, we determined there was an indication that the carrying value of the net assets assigned to the Hospitality reporting unit may not be recoverable. Based on the assessment completed as of March 31, 2020, it was determined the fair value of the Hospitality reporting unit was greater than the carrying value.

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**Notes to Consolidated Financial Statements--(Continued)**

As discussed in Note 1, “Basis of Presentation and Significant Accounting Policies” NCR completed the annual goodwill impairment test during the fourth quarter of 2020. The Company elected to perform a qualitative assessment for the Banking, Retail, and T&T reporting units and a quantitative analysis for the Hospitality reporting unit. Based on the qualitative assessments completed, it was determined that the fair value of the Banking, Retail and T&T reporting units were substantially in excess of the carrying value.

For the quantitative assessment of the Hospitality reporting unit, the fair value was estimated using a weighted methodology considering the output from both the income and market approaches. The income approach incorporates the use of discounted cash flow (DCF) analysis. A number of significant assumptions and estimates are involved in the application of the discounted cash flow model to forecast operating cash flows, including revenue growth, operating income margin and discount rate. The market approach is performed using the Guideline Public Companies (GPC) method which is based on earnings multiple data of peer companies.

The Company expects the COVID-19 pandemic to have a significant impact to the Hospitality customers in the table service market, travel and entertainment market and small and medium business market in the near term. However, the expectation is the long term growth strategy will remain intact. Based on the quantitative assessment completed for the annual goodwill impairment test, the Company determined the fair value of the Hospitality reporting unit continues to be greater than the carrying value. However, if the actual results or the anticipated timing of the recovery from the COVID-19 pandemic differ from our expectations for the Hospitality, or any, reporting unit, there is a possibility we would have to perform an interim impairment test in 2021, which could lead to an impairment of goodwill or other assets.

During the year ended December 31, 2018, the Company recorded impairment charges of \$146 million under the previous segment reporting structure where it was determined there was an indication that the carrying value of the net assets assigned to the Hardware reporting unit may not be recoverable. These charges were recorded in the line item asset impairment charges in our Consolidated Statement of Operations for the year ended December 31, 2018.

*Identifiable Intangible Assets* NCR's purchased intangible assets, reported in intangibles, net in the Consolidated Balance Sheets, were specifically identified when acquired, and are deemed to have finite lives. The gross carrying amount and accumulated amortization for NCR's identifiable intangible assets were as set forth in the table below.

In millions	Amortization Period (in Years)	December 31, 2020		December 31, 2019	
		Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
<b>Identifiable intangible assets</b>					
Reseller & customer relationships	1 - 20	\$ 740	\$ (324)	\$ 735	\$ (270)
Intellectual property	2 - 8	531	(418)	529	(397)
Customer contracts	8	89	(89)	89	(89)
Tradenames	1 - 10	77	(74)	78	(68)
<b>Total identifiable intangible assets</b>		<b>\$ 1,437</b>	<b>\$ (905)</b>	<b>\$ 1,431</b>	<b>\$ (824)</b>

The aggregate amortization expense (actual and estimated) for identifiable intangible assets for the following periods is:

In millions	For the year ended December 31, 2020	For the years ended December 31 (estimated)				
		2021	2022	2023	2024	2025
Amortization expense	\$ 81	\$ 72	\$ 68	\$ 66	\$ 59	\$ 51

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

### 3. BUSINESS COMBINATIONS AND DIVESTITURES

#### 2020 Acquisition

##### Acquisition of Origami

On June 6, 2019, our subsidiary, NCR Brasil Ltda. (NCR Brasil) entered into a definitive agreement with OKI Electric Industry Co., Ltd. and its Brazilian subsidiary, OKI Brasil Industria e Comércio de Produtos e Tecnologia em Automação S.A. (OKI Brasil), to purchase OKI Brasil's IT services and select software assets for use in the financial, retail and other industries. Neither OKI Brasil's manufacturing operations nor its printing business in Brazil were included in the acquisition. On April 9, 2020, NCR Brasil completed this acquisition through the purchase of 100% of the quotas of Origami Brasil Tecnologia e Serviços em Automação Ltda. (Origami), which became a wholly-owned subsidiary of NCR Brasil. The purchase price was approximately \$5 million, of which \$2 million is payable in cash within two years of the acquisition date, subject to certain conditions, and the remaining \$3 million is payable in cash within six years of the acquisition date, subject to purchase price adjustments.

The fair value of consideration transferred to acquire Origami was allocated to the identifiable assets and liabilities assumed based upon their estimated fair values as of the date of acquisition as set forth below. The acquisition has resulted in a bargain purchase gain based on the purchase price being limited mostly to the net assets of the business excluding cash and investments. The bargain purchase gain has been recorded in other income (expense), net within the Consolidated Statement of Operations.

In millions	Fair Value
Cash acquired	\$ 1
Investments acquired	9
Tangible assets acquired	18
Bargain purchase gain on business acquisition	(7)
Liabilities assumed	(16)
<b>Total purchase consideration</b>	<b>\$ 5</b>

The operating results of Origami have been included within NCR's results as of the closing date of the acquisition. Supplemental pro forma information and actual revenue and earnings since the acquisition date have not been provided as this acquisition did not have a material impact on the Company's Consolidated Statements of Operations.

#### 2019 Acquisitions

##### Acquisition of D3 Technology, Inc.

On July 1, 2019, NCR completed its acquisition of D3 Technology, Inc. (D3), a leading provider of online and mobile banking for the Large Financial Institution market, for approximately \$84 million, of which \$83 million was paid in cash. The remaining \$1 million was payable within 12 months from the date of acquisition and paid in 2020. The D3 acquisition further expands our digital banking strategy as we extend our market share in large domestic banks and international banks. As a result of the acquisition, D3 became a wholly-owned subsidiary of NCR.

*Recording of Assets Acquired and Liabilities Assumed* The fair value of consideration transferred to acquire D3 was allocated to the identifiable assets acquired and liabilities assumed based upon their estimated fair values as of the date of the acquisition as set forth below.

The final allocation of the purchase price for D3 is as follows:

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

In millions	Fair Value
Cash acquired	\$ 9
Tangible assets acquired	6
Acquired intangible assets other than goodwill	20
Acquired goodwill	51
Deferred tax assets	6
Liabilities assumed	(8)
Total purchase consideration	<u>\$ 84</u>

Goodwill represents the future economic benefits arising from other assets acquired that could not be individually separately recognized. The goodwill arising from the acquisition consists of revenue synergies expected from combining the operations of NCR and D3. It is expected that none of the goodwill recognized in connection with the acquisition will be deductible for tax purposes. The goodwill arising from the acquisition has been allocated to our Banking segment. Refer to Note 2, "Goodwill and Purchased Intangible Assets" for the carrying amounts of goodwill by segment.

The following table sets forth the components of the intangible assets acquired as of the acquisition date:

	Fair Value (In millions)	Weighted Average Amortization Period <sup>(1)</sup> (In years)
Direct customer relationships	\$ 7	11
Technology - Software	11	5
Tradenames	2	7
Total acquired intangible assets	<u>\$ 20</u>	

<sup>(1)</sup> Determination of the weighted average period of the individual categories of intangible assets was based on the nature of applicable intangible asset and the expected future cash flows to be derived from the intangible asset. Amortization of intangible assets with definite lives is recognized over the period of time the assets are expected to contribute to future cash flows.

In connection with the closing of the acquisition, the Company incurred approximately \$1 million of transaction costs, which has been included within selling, general and administrative expenses in the Consolidated Statement of Operations for the year ended December 31, 2019.

The operating results of D3 have been included within NCR's results as of the closing date of the acquisition. Supplemental pro forma information and actual revenue and earnings since the acquisition date have not been provided as this acquisition did not have a material impact on the Company's Consolidated Statements of Operations.

#### Acquisition of Zynstra Ltd.

On December 21, 2019, NCR completed its acquisition of Zynstra, Ltd. (Zynstra), a leading provider of edge virtualization technology, for approximately \$134 million, of which \$112 million was paid in cash. The remaining \$22 million was paid in 2020. The Zynstra acquisition further expands our digital retail strategy as we further enhance our next generation store architecture. As a result of the acquisition, Zynstra became a wholly-owned subsidiary of NCR.

*Recording of Assets Acquired and Liabilities Assumed* The fair value of consideration transferred to acquire Zynstra was allocated to the identifiable assets acquired and liabilities assumed based upon their estimated fair values as of the date of the acquisition as set forth below.

The final allocation of the purchase price for Zynstra is as follows:

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

In millions	Fair Value
Cash acquired	\$ 1
Tangible assets acquired	1
Acquired intangible assets other than goodwill	76
Acquired goodwill	66
Deferred tax liability	(9)
Liabilities assumed	(1)
Total purchase consideration	<u>\$ 134</u>

Goodwill represents the future economic benefits arising from other assets acquired that could not be individually separately recognized. The goodwill arising from the acquisition consists of revenue and cost synergies expected from combining the operations of NCR and Zynstra. It is expected that none of the goodwill recognized in connection with the acquisition will be deductible for tax purposes. The goodwill arising from the acquisition has been allocated to our Retail segment. Refer to Note 2, "Goodwill and Purchased Intangible Assets" for the carrying amounts of goodwill by segment.

The following table sets forth the components of the intangible assets acquired as of the acquisition date:

	Fair Value (In millions)	Weighted Average Amortization Period <sup>(1)</sup> (In years)
Technology - Software	\$ 75	8
Tradenames	1	1
Total acquired intangible assets	<u>\$ 76</u>	

<sup>(1)</sup> Determination of the weighted average period of the individual categories of intangible assets was based on the nature of applicable intangible asset and the expected future cash flows to be derived from the intangible asset. Amortization of intangible assets with definite lives is recognized over the period of time the assets are expected to contribute to future cash flows.

In connection with the closing of the acquisition, the Company incurred approximately \$2 million of transaction costs, which has been included within selling, general and administrative expenses in the Consolidated Statement of Operations for the year ended December 31, 2019.

The operating results of Zynstra have been included within NCR's results as of the closing date of the acquisition. Supplemental pro forma information and actual revenue and earnings since the acquisition date have not been provided as this acquisition did not have a material impact on the Company's Consolidated Statements of Operations.

#### **Other 2019 acquisitions**

During the year ended December 31, 2019, the Company completed four acquisitions of local resellers in the hospitality industry for an aggregate purchase consideration of approximately \$20 million, plus related acquisition costs. Approximately \$2 million was withheld by the Company as a source of recovery for possible claims and payments under the related acquisition agreements and will be paid to the respective sellers pursuant to the terms of such agreements. Goodwill recognized related to these acquisitions was \$17 million, all of which is expected to be deductible for tax purposes. The goodwill arising from these acquisitions has been allocated to the Hospitality segment. As a result of these acquisitions, NCR recorded \$6 million related to identifiable intangible assets consisting primarily of customer relationships, which have a weighted-average amortization period of 8 years. Supplemental pro forma information and actual revenue and earnings since the acquisition dates have not been provided as these acquisitions did not have a material impact, individually or in the aggregate, on the Company's Consolidated Statements of Operations.

#### **2018 Acquisitions**

##### **Acquisition of JetPay Corporation**

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

On December 6, 2018, NCR completed its acquisition of JetPay Corporation (JetPay), for which it purchased (i) all outstanding shares of common stock at a price of \$5.05 per share, (ii) shares of Series A Preferred Stock at \$5.05 per share, (iii) shares of Series A-1 Convertible Preferred Stock at a price of \$600 per share, (iv) shares of Series A-2 Convertible Preferred Stock of JetPay at a price of \$600 per share, and (v) transaction costs paid on behalf of the seller for an aggregate purchase price of \$193 million which was paid in cash. As a result of the acquisition, JetPay became a wholly-owned subsidiary of NCR.

JetPay is a provider of end-to-end payment processing and human capital management solutions. The acquisition is consistent with NCR's continued transformation to a software- and services-driven business. JetPay complements and extends our existing capabilities by allowing us to monetize transactions via payments.

*Recording of Assets Acquired and Liabilities Assumed* The fair value of consideration transferred to acquire JetPay was allocated to the identifiable assets acquired and liabilities assumed based upon their estimated fair values as of the date of the acquisition as set forth below.

The final allocation of the purchase price for JetPay is as follows:

In millions	Fair Value
Cash acquired	\$ 50
Tangible assets acquired	30
Acquired intangible assets other than goodwill	104
Acquired goodwill	96
Deferred tax liabilities	(11)
Liabilities assumed	(76)
Total purchase consideration	<u>\$ 193</u>

Goodwill represents the future economic benefits arising from other assets acquired that could not be individually separately recognized. The goodwill arising from the acquisition consists of revenue synergies expected from combining the operations of NCR and JetPay. It is expected that none of the goodwill recognized in connection with the acquisition will be deductible for tax purposes. The goodwill arising from the acquisition has been allocated to our Retail and Hospitality segments. Refer to Note 2, "Goodwill and Purchased Intangible Assets" for the carrying amounts of goodwill by segment.

The following table sets forth the components of the intangible assets acquired as of the acquisition date:

	Fair Value (In millions)	Weighted Average Amortization Period <sup>(1)</sup> (In years)
Direct customer relationships	\$ 64	17
Technology - Software	39	9
Tradenames	1	1
Total acquired intangible assets	<u>\$ 104</u>	

<sup>(1)</sup> Determination of the weighted average period of the individual categories of intangible assets was based on the nature of applicable intangible asset and the expected future cash flows to be derived from the intangible asset. Amortization of intangible assets with definite lives is recognized over the period of time the assets are expected to contribute to future cash flows.

In connection with the closing of the acquisition, the Company incurred approximately \$4 million of transaction costs, which has been included within selling, general and administrative expenses in the Consolidated Statement of Operations for the year ended December 31, 2018.

*Unaudited Pro forma Information* The following unaudited pro forma information presents the consolidated results of NCR and JetPay for the years ended December 31, 2018. The unaudited pro forma information is presented for illustrative purposes only. It is not necessarily indicative of the results of operations of future periods, or the results of operations that actually would have been realized had the entities been a single company during the periods presented or the results that the combined company will experience after the acquisition. The unaudited pro forma information does not give effect to the potential impact of current

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

financial conditions, regulatory matters or any anticipated synergies, operating efficiencies or cost savings that may be associated with the acquisition. The unaudited pro forma information also does not include any integration costs or remaining future transaction costs that the companies may incur related to the acquisition as part of combining the operations of the companies.

The unaudited pro forma consolidated results of operations for the year ended December 31, 2018, as if the acquisition had occurred on January 1, 2017, is as follows:

In millions	2018
Revenue	\$ 6,468
Net income attributable to NCR	\$ (46)

The unaudited pro forma results for the year ended December 31, 2018 include:

- \$4 million, net of tax, in additional amortization expense for acquired intangible assets;
- \$4 million, net of tax, in eliminated transaction costs as if those costs were incurred in the prior year period; and
- \$7 million, net of tax, in additional interest expense from the incremental borrowings under the senior secured credit facility.

### Other 2018 acquisitions

During the third quarter of 2018, we completed the acquisition of Zipscene, LLC which aggregates and enriches data from hospitality customers to provide marketing insights back to our customers and will enable us to increase data monetization. During the fourth quarter of 2018, we completed its acquisition of StopLift Checkout Vision Systems ("StopLift"). StopLift designs artificial intelligence technology which identifies fraudulent behavior at the POS and in SCO systems.

## 4. SEGMENT INFORMATION AND CONCENTRATIONS

The Company manages and reports its business in the following segments:

- **Banking** - We offer solutions to customers in the financial services industry that power their digital transformation through software, services and hardware to deliver differentiated experiences for their customers and improve efficiency for the financial institution. Our managed services and ATM-as-a-Service help banks run their end-to-end ATM channel, positioning NCR as a strategic partner. We augment these solutions by offering a full line of software, services and hardware including interactive teller machines (ITM), and recycling, multi-function and cash dispense ATMs. NCR's digital banking solutions enable anytime-anywhere convenience for a financial institution's consumer and business customers. We also help institutions implement their Digital First platform strategy by providing solutions for banking channel services, transaction processing, imaging, and branch services.
- **Retail** - We offer software-defined solutions to customers in the retail industry, leading with digital to connect retail operations end to end to integrate all aspects of a customer's operations in indoor and outdoor settings from POS, to payments, inventory management, fraud and loss prevention applications, loyalty and consumer engagement. These solutions are designed to improve operational efficiency, selling productivity, customer satisfaction and purchasing decisions; provide secure checkout processes and payment systems; and increase service levels. These solutions include retail-oriented technologies such as comprehensive API-point of sale retail software platforms and applications, hardware terminals, self-service kiosks including self-checkout (SCO), payment processing solutions, and bar-code scanners.
- **Hospitality** - We offer technology solutions to customers in the hospitality industry, including table-service, quick-service and fast casual restaurants of all sizes, that are designed to improve operational efficiency, increase customer satisfaction, streamline order and transaction processing and reduce operating costs. Our portfolio includes cloud-based software applications for point-of-sale, back office, payment processing, kitchen production, restaurant management and consumer engagement. We also provide hospitality-oriented hardware products such as POS terminals, order and payment kiosks, bar code scanners, printers and peripherals. And finally, we help reduce the complexities of running the restaurant through our services capabilities including strategic advisory, technology deployment and implementation, hardware and software maintenance and managed services.



**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

- **Telecommunications and Technology (T&T)** - We offer maintenance, managed and professional services using solutions such as remote management and monitoring services, which are designed to improve operational efficiency, network availability and end-user experience, to customers in the telecommunications and technology industry. We also provide such services to end users on behalf of select manufacturers leveraging our global service capability, and resell third party networking products to customers in a variety of industries.

These segments represent components of the Company for which separate financial information is available that is utilized on a regular basis by the chief operating decision maker in assessing segment performance and in allocating the Company's resources. Management evaluates the performance of the segments based on revenue and segment operating income. Assets are not allocated to segments, and thus are not included in the assessment of segment performance, and consequently, we do not disclose total assets by reportable segment.

The accounting policies used to determine the results of the operating segments are the same as those utilized for the consolidated financial statements as a whole. Inter-segment sales and transfers are not material.

To maintain operating focus on business performance, non-operational items are excluded from the segment operating results utilized by our chief operating decision maker in evaluating segment performance and are separately delineated to reconcile back to total reported income from operations.

The following table presents revenue and operating income by segment for the years ended December 31:

In millions	2020	2019	2018
<b>Revenue by segment</b>			
Banking	\$ 3,098	\$ 3,512	\$ 3,183
Retail	2,080	2,217	2,097
Hospitality	684	843	817
T&T	345	343	308
<b>Consolidated revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>
<b>Operating income by segment</b>			
Banking	\$ 381	\$ 514	\$ 412
Retail	116	144	142
Hospitality	7	56	85
T&T	26	44	49
<b>Subtotal - segment operating income</b>	<b>530</b>	<b>758</b>	<b>688</b>
Other adjustments <sup>(1)</sup>	309	147	497
<b>Income from operations</b>	<b>\$ 221</b>	<b>\$ 611</b>	<b>\$ 191</b>

<sup>(1)</sup> The following table presents the other adjustments for NCR for the years ended December 31:

In millions	2020	2019	2018
Transformation and restructuring costs	\$ 227	\$ 58	\$ 223
Acquisition-related amortization of intangibles	81	86	85
Acquisition-related costs	1	3	6
Asset impairment charges	—	—	183
<b>Total other adjustments</b>	<b>\$ 309</b>	<b>\$ 147</b>	<b>\$ 497</b>

The following table presents revenue from products and services for NCR for the years ended December 31:

In millions	2020	2019	2018
Recurring revenue <sup>(1)</sup>	\$ 3,338	\$ 3,182	\$ 2,970
All other products and services	2,869	3,733	3,435
<b>Consolidated revenue</b>	<b>\$ 6,207</b>	<b>\$ 6,915</b>	<b>\$ 6,405</b>

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

<sup>(1)</sup> Recurring revenue includes all revenue streams from contracts where there is a predictable revenue pattern that will occur at regular intervals with a relatively high degree of certainty. This includes hardware and software maintenance revenue, cloud revenue, payment processing revenue, and certain professional services arrangements as well as term-based software license arrangements that include customer termination rights.

Revenue is attributed to the geographic area to which the product is delivered or in which the service is provided. The following table presents revenue by geographic area for NCR for the years ended December 31:

In millions	2020	%	2019	%	2018	%
<b>Revenue by Geographic Area</b>						
United States	\$ 3,065	49 %	\$ 3,481	50 %	\$ 3,076	48 %
Americas (excluding United States)	617	10 %	693	10 %	631	10 %
Europe, Middle East and Africa	1,679	27 %	1,843	27 %	1,751	27 %
Asia Pacific	846	14 %	898	13 %	947	15 %
<b>Consolidated revenue</b>	<b>\$ 6,207</b>	<b>100 %</b>	<b>\$ 6,915</b>	<b>100 %</b>	<b>\$ 6,405</b>	<b>100 %</b>

The following table presents property, plant and equipment by geographic area as of December 31:

In millions	2020	2019
<b>Property, plant and equipment, net</b>		
United States	\$ 244	\$ 280
Americas (excluding United States)	14	14
Europe, Middle East and Africa	75	74
Asia Pacific	40	45
<b>Consolidated property, plant and equipment, net</b>	<b>\$ 373</b>	<b>\$ 413</b>

**Concentrations** No single customer accounts for more than 10% of NCR's consolidated revenue and accounts receivable as of December 31, 2020 and 2019. As of December 31, 2020 and 2019, NCR is not aware of any significant concentration of business transacted with a particular customer that could, if suddenly eliminated, have a material adverse effect on NCR's operations. NCR also lacks a concentration of available sources of labor, services, licenses or other rights that could, if suddenly eliminated, have a material adverse effect on its operations.

A number of NCR's products, systems and solutions rely primarily on specific suppliers for microprocessors and other component products, manufactured assemblies, operating systems, commercial software and other central components. NCR also utilizes contract manufacturers in order to complete manufacturing activities. There can be no assurances that any sudden impact to the availability or cost of these technologies or services would not have a material adverse effect on NCR's operations.

## 5. DEBT OBLIGATIONS

The following table summarizes the Company's short-term borrowings and long-term debt:

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

In millions, except percentages	December 31, 2020		December 31, 2019	
	Amount	Weighted-Average Interest Rate	Amount	Weighted-Average Interest Rate
<b>Short-Term Borrowings</b>				
Current portion of Senior Secured Credit Facility <sup>(1)</sup>	\$ 8	2.65%	\$ 8	4.30%
Trade Receivables Securitization Facility <sup>(1)</sup>	—	—%	270	2.65%
Other <sup>(1)</sup>	—	—%	4	2.82%
Total short-term borrowings	<b>\$ 8</b>		<b>\$ 282</b>	
<b>Long-Term Debt</b>				
Senior Secured Credit Facility:				
Term loan facility <sup>(1)</sup>	\$ 733	2.65%	\$ 740	4.30%
Revolving credit facility <sup>(1)</sup>	75	2.40%	265	3.76%
Senior Notes:				
5.00% Senior Notes due 2022	—		600	
6.375% Senior Notes due 2023	—		700	
8.125% Senior Notes due 2025	400		—	
5.750% Senior Notes due 2027	500		500	
5.000% Senior Notes due 2028	650		—	
6.125% Senior Notes due 2029	500		500	
5.250% Senior Notes due 2030	450		—	
Deferred financing fees	(40)		(32)	
Other <sup>(1)</sup>	2	7.68%	4	0.05%
Total long-term debt	<b>\$ 3,270</b>		<b>\$ 3,277</b>	

<sup>(1)</sup> Interest rates are weighted average interest rates as of December 31, 2020 and 2019.

*Senior Secured Credit Facility* On August 28, 2019, the Company entered into an amended and restated senior secured credit agreement with and among certain subsidiaries of NCR (the Foreign Borrowers), the lenders party thereto and JPMorgan Chase Bank, NA (JPMCB) as the administrative agent, refinancing its term loan facility and revolving credit facility thereunder (the Senior Secured Credit Facility). The Senior Secured Credit Facility consists of a term loan facility in an original aggregate principal amount of \$750 million, of which \$741 million was outstanding as of December 31, 2020. Additionally, the Senior Secured Credit Facility provides for a five-year revolving credit facility with an aggregate principal amount of \$1.1 billion, of which \$75 million was outstanding as of December 31, 2020. The revolving credit facility also allows a portion of the availability to be used for letters of credit, and, as of December 31, 2020, outstanding letters of credit were \$26 million.

Up to \$400 million of the revolving credit facility is available to the Foreign Borrowers, as long as there is availability under the revolving credit facility. Term loans were made to the Company in U.S. Dollars, and loans under the revolving credit facility are available in U.S. Dollars, Euros and Pound Sterling.

The outstanding principal balance of the term loan facility is required to be repaid in equal quarterly installments of 0.25% of the original aggregate principal amount that began with the fiscal quarter ending December 31, 2019, with the balance being due at maturity on August 28, 2026 and may be repaid and reborrowed prior to maturity, subject to the satisfaction of customary conditions. Borrowings under the revolving portion of the credit facility are due August 28, 2024. Revolving loans outstanding under the Senior Secured Credit Facility denominated in U.S. Dollars bear interest at the Company's option at (a) London Inter-bank Offered Rate (LIBOR), plus a margin ranging from 1.25% to 2.25% or (b) a base rate equal to the highest of (i) the federal funds rate plus 0.50%, (ii) the rate of interest last quoted by the Wall Street Journal as the "prime rate" and (iii) the one-month LIBOR rate plus 1.00% (the Base Rate), plus, a margin ranging from 0.25% to 1.25%, in each case, depending on the Company's consolidated leverage ratio. Revolving loans denominated in Euro bear interest at the EURIBOR, plus a margin ranging from 1.25% to 2.25% depending on the Company's consolidated leverage ratio. The terms of the Senior Secured Credit Facility also require certain other fees and payments to be made by the Company, including a commitment fee on the undrawn portion of the revolving credit facility. Term loans outstanding under the Senior Secured Credit Facility bear interest, at NCR's option, at LIBOR plus 2.50% per annum or the Base Rate plus a 1.50% margin per annum. In the event that LIBOR is no longer available or in certain other circumstances as described in the Senior Secured Credit Facility, the Senior Secured Credit Facility provides a mechanism for determining an alternative rate of interest. There is no assurance that any such

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, LIBOR.

The obligations of the Company and Foreign Borrowers under the Senior Secured Credit Facility are guaranteed by the Company's wholly-owned subsidiary, NCR International, Inc (the Guarantor Subsidiary). The Senior Secured Credit Facility and such guarantee are secured by a first priority lien and security interest in certain equity interests owned by the Company and the Guarantor Subsidiary in certain of their respective domestic and foreign subsidiaries, and a perfected first priority lien and security interest in substantially all of the Company's U.S. assets and the assets of the Guarantor Subsidiary, subject to certain exclusions. These security interests would be released if the Company achieves an "investment grade" rating and will remain released so long as the Company maintains that rating.

The Senior Secured Credit Facility includes affirmative and negative covenants that restrict or limit the ability of the Company and its subsidiaries to, among other things, incur indebtedness; create liens on assets; engage in certain fundamental corporate changes or changes to the Company's business activities; make investments; sell or otherwise dispose of assets; engage in sale-leaseback or hedging transactions; repurchase stock, pay dividends or make similar distributions; repay other indebtedness; engage in certain affiliate transactions; or enter into agreements that restrict the Company's ability to create liens, pay dividends or make loan repayments. The Senior Secured Credit Facility also includes a financial covenant that requires the Company to maintain:

- a consolidated leverage ratio on the last day of any fiscal quarter, not to exceed (i) in the case of any fiscal quarter ending on or prior to March 31, 2021, (a) the sum of 4.50 and an amount (not to exceed 0.50) to reflect debt used to reduce NCR's unfunded pension liabilities to (b) 1.00, and (ii) in the case of any fiscal quarter ending after March 31, 2021 and on or prior to March 31, 2023, (a) the sum of 4.25 and an amount (not to exceed 0.50) to reflect debt used to reduce NCR's unfunded pension liabilities to (b) 1.00; and (iii) in the case of any fiscal quarter ending after March 31, 2023, (a) the sum of 4.00 and an amount (not to exceed 0.50) to reflect debt used to reduce our unfunded pension liabilities to (b) 1.00.

The Company has the option to elect to increase the maximum permitted leverage ratio by 0.25 in connection with the consummation of any material acquisition (as defined in the Senior Secured Credit Facility) for four fiscal quarters, but in no event will the maximum permitted leverage ratio, inclusive of all increases, exceed 4.75 to 1.00. At December 31, 2020, the maximum consolidated leverage ratio under the Senior Secured Credit Facility was 4.60 to 1.00.

The Senior Secured Credit Facility also includes provisions for events of default, which are customary for similar financings. Upon the occurrence of an event of default, the lenders may, among other things, terminate the loan commitments, accelerate all loans and require cash collateral deposits in respect of outstanding letters of credit. If the Company is unable to pay or repay the amounts due, the lenders could, among other things, proceed against the collateral granted to them to secure such indebtedness.

On January 14, 2021, the Company obtained a waiver to the Senior Secured Credit Facility, pursuant to which the lenders under the revolving credit facility agreed to waive certain automatic events of default that had occurred due to an administrative error in the then-current terms of the Senior Secured Credit Facility that did not reflect the intention of the parties. The administrative error related to not treating our Series A Convertible Preferred Stock as indebtedness for purposes of the total leverage ratio calculations in the Company's compliance certificates and resulted in the Company underpaying certain interest and other amounts with respect to its revolving credit facility. The January 14, 2021 waiver eliminated the automatic events of default that would have existed related to such interest underpayment for the quarter ended December 31, 2019, the quarter ended March 31, 2020, the quarter ended June 30, 2020, the quarter ended September 30, 2020 and the quarter ended December 31, 2020 periods. On January 22, 2021, the Company entered into a third amendment to the Senior Secured Credit Facility, pursuant to which the lenders under the revolving credit facility agreed that, thereafter, our Series A Convertible Preferred Stock would not be treated as indebtedness for purposes of the leverage ratio calculations under the revolving credit facility.

On February 4, 2021, the Company entered into a fourth amendment to the Senior Secured Credit Facility. Pursuant to such amendment, upon the closing of the proposed Cardtronics transaction, the maximum permitted total leverage ratio of the Company will be increased initially to 5.50 to 1.00, subject to further modification as set forth in the amendment. In addition, certain technical and other changes to the Senior Secured Credit Facility, including amendments to the definition of "Permitted Acquisition" set forth therein, are now operative.

On February 16, 2021, the Company entered into (a) an amended and restated commitment letter (the Commitment Letter), with certain financial institutions party thereto (the Commitment Parties), (b) an incremental term loan A facility agreement (the

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

Incremental Term Agreement) with the Commitment Parties and the Guarantor Subsidiary and (c) an incremental revolving facility agreement (the Incremental Revolving Agreement) with certain financial institutions, the Guarantor Subsidiary and certain of the Foreign Borrowers.

Pursuant to and subject to the Commitment Letter and the Incremental Term Agreement, in connection with the proposed Cardtronics transaction, the Commitment Parties have committed to provide the following: (i) a senior secured incremental term loan A facilities under the Senior Secured Credit Facility, in an aggregate principal amount of \$1.455 billion, (ii) a senior secured incremental term loan B facility under the Senior Secured Credit Facility, in an aggregate principal amount of \$245 million and (iii) a senior secured bridge facility (a portion of which may be unsecured) in an aggregate principal amount of \$1.00 billion. The credit facilities will be available to the Company subject to certain conditions precedent, including, among other things, the closing of the proposed Cardtronics transaction. Pursuant to the terms of the Incremental Term Agreement, subject to the satisfaction of certain customary conditions, \$200 million of the \$1.455 billion term loan A facility will convert into revolving credit commitments under the Senior Secured Credit Facility (the Additional Revolving Commitments) on or about the date that is 3 business days after the closing of the initial funding of the term loan A facilities. The bridge facility will be available to the Company if, and to the extent, the securities referred to in the following paragraph are not issued on or prior to the closing of the proposed Cardtronics transaction.

On February 16, 2021, the Company also entered into an amended and restated engagement letter (the Engagement Letter) with certain financial institutions (which may be affiliates of the Commitment Parties) with respect to certain potential securities offerings in connection with the proposed Cardtronics transaction. To the extent that the Company consummates one or more such securities offerings on or prior to the closing of the proposed Cardtronics transaction, the Company expects to correspondingly reduce the commitments with respect to the senior secured bridge facility. Any offer or sale of any such securities will be made pursuant to the applicable offering document for such securities.

Pursuant to the Incremental Revolving Agreement, the lenders party thereto have agreed to provide the Company and the Foreign Borrowers with a \$1.1 billion revolving credit facility under the Senior Secured Credit Facility to replace the Company's existing senior credit revolving credit facility, which will be available to the Company upon the satisfaction of certain customary conditions precedent and conditions subsequent, including the closing of the proposed Cardtronics transaction and subject to increase in connection with the conversion of a portion of the term loan A facility into Additional Revolving Commitments.

The Company may request, at any time and from time to time, but the lenders are not obligated to fund, the establishment of one or more incremental term loans and/or revolving credit facilities (subject to the agreement of existing lenders or additional financial institutions to provide such term loans and/or revolving credit facilities) with commitments in an aggregate amount not to exceed the greater of (i) \$150 million, and (ii) such amount as would not cause the leverage ratio under the Senior Secured Credit Facility, calculated on a pro forma basis including the incremental facility and assuming that it and the revolver are fully drawn, to exceed 3.00 to 1.00, and the proceeds of which can be used for working capital requirements and other general corporate purposes.

*Senior Unsecured Notes* On August 21, 2019, the Company issued \$500 million aggregate principal amount of 5.750% senior unsecured notes due in 2027 (the 5.750% Notes). The 5.750% Notes were sold at 100% of the principal amount with a maturity date of September 1, 2027. The 5.750% Notes were issued without registration rights. The Company has the option to redeem the 5.750% Notes, in whole or in part, at any time on or after September 1, 2022, at a redemption price of 102.875%, 101.438%, and 100% during the 12-month periods commencing on September 1, 2022, 2023 and 2024 and thereafter, respectively, plus accrued and unpaid interest to the redemption date. Prior to September 1, 2022, the Company may redeem the 5.750% Notes, in whole or in part, at a redemption price equal to 100% of the principal amount plus a make-whole premium and accrued and unpaid interest to the redemption date.

On August 21, 2019, the Company issued \$500 million aggregate principal amount of 6.125% senior unsecured notes due in 2029 (the 6.125% Notes). The 6.125% Notes were sold at 100% of the principal amount with a maturity date of September 1, 2029. The 6.125% Notes were issued without registration rights. The Company has the option to redeem the 6.125% Notes, in whole or in part, at any time on or after September 1, 2024, at a redemption price of 103.063%, 102.042%, 101.021% and 100% during the 12-month periods commencing on September 1, 2024, 2025, 2026 and 2027 and thereafter, respectively, plus accrued and unpaid interest to the redemption date. Prior to September 1, 2024, the Company may redeem the 6.125% Notes, in whole or in part, at a redemption price equal to 100% of the principal amount plus a make-whole premium and accrued and unpaid interest to the redemption date.

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**Notes to Consolidated Financial Statements—(Continued)**

On April 13, 2020, the Company issued \$400 million aggregate principal amount of 8.125% senior unsecured notes due in 2025 (the 8.125% Notes). The 8.125% Notes were sold at 100% of the principal amount with a maturity date of April 15, 2025. The Company has the option to redeem the 8.125% Notes, in whole or in part, at any time on or after April 15, 2022, at a redemption price of 104.063%, 102.031%, and 100% during the 12-month periods commencing on April 15, 2022, 2023 and 2024 and thereafter, respectively, plus accrued and unpaid interest to the redemption date. Prior to April 15, 2022, the Company may redeem some or all of the 8.125% Notes by paying a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus the Applicable Premium, as defined in the Indenture, as of, and accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record of the Notes on the relevant record date to receive interest due on the relevant interest payment date).

On August 20, 2020, the Company issued \$650 million aggregate principal amount of 5.000% senior unsecured notes due in 2028 (the 5.000% Notes) and \$450 million aggregate principal amount of 5.250% senior unsecured notes due in 2030 (the 5.250% Notes). Interest is payable on the 5.000% and 5.250% Notes semi-annually in arrears at interest rates of 5.000% and 5.250%, respectively, on April 1 and October 1 of each year beginning April 1, 2021. The 5.000% and 5.250% Notes were sold at 100% of the principal amount and with maturity dates of October 1, 2028 and October 1, 2030, respectively.

At any time and from time to time, prior to October 1, 2023, the Company may redeem up to a maximum of 40% of the original aggregate principal amount of either the 5.000% or 5.250% Notes with the proceeds of one or more equity offerings, at a redemption price equal to 105.000%, with respect to the 5.000% Notes, and 105.250%, with respect to the 5.250% Notes, of the principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but not including, the redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date); provided that: (i) at least 55% of the original aggregate principal amount of the 5.000% or 5.250% Notes remains outstanding; and (ii) such redemption occurs within 180 days of the completion of such equity offering.

Prior to October 1, 2023, with respect to the 5.000% Notes, or October 1, 2025, with respect to the 5.250% Notes, the Company may redeem some or all of such series of Notes by paying a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus the Applicable Premium, as defined in the Indenture, as of, and accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record of the Notes on the relevant record date to receive interest due on the relevant interest payment date).

The Company has the option to redeem the 5.000% Notes, in whole or in part, at any time on or after October 1, 2023, at a redemption price of 102.500%, 101.250%, and 100% during the 12-month periods commencing on October 1, 2023, 2024 and 2025 and thereafter, respectively, plus accrued and unpaid interest to the redemption date.

The Company has the option to redeem the 5.250% Notes, in whole or in part, at any time on or after October 1, 2025, at a redemption price of 102.625%, 101.750%, 100.875%, and 100% during the 12-month periods commencing on October 1, 2025, 2026, 2027 and 2028 and thereafter, respectively, plus accrued and unpaid interest to the redemption date.

On September 19, 2020, the Company used the proceeds from the offering of the 5.000% and 5.250% Notes, together with other cash on hand, to redeem and satisfy and discharge all of its outstanding \$600 million aggregate principal amount of 5.000% senior unsecured notes due in 2022 and \$700 million aggregate principal amount of 6.375% senior unsecured notes due in 2023. These 5.00% notes were redeemed at 100% plus accrued and unpaid interest. These 6.375% notes were redeemed at a premium of 102.125% plus accrued and unpaid interest. As a part of our debt extinguishment, we recognized a loss of \$20 million, which includes the write-off of deferred financing fees of \$5 million and a cash redemption premium of \$15 million.

For the issuance of the 8.125% Notes, the 5.000% Notes and the 5.250% Notes, the Company incurred debt issuance fees of \$21 million that have been deferred and will be recognized in interest expense over the term of the indentures.

The senior unsecured notes are guaranteed by the Guarantor Subsidiary, which has guaranteed fully and unconditionally the obligations to pay principal and interest for these senior unsecured notes. The terms of the indentures for these notes limit the ability of the Company and certain of its subsidiaries to, among other things, incur additional debt or issue redeemable preferred stock; pay dividends or make certain other restricted payments or investments; incur liens; sell assets; incur restrictions on the ability of the Company's subsidiaries to pay dividends to the Company; enter into affiliate transactions; engage in sale and leaseback transactions; and consolidate, merge, sell or otherwise dispose of all or substantially all of the Company's or such subsidiaries' assets. These covenants are subject to significant exceptions and qualifications. For example, if these notes are

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

assigned an "investment grade" rating by Moody's or S&P and no default has occurred or is continuing, certain covenants will be terminated.

*Trade Receivables Securitization Facility* In November 2014, the Company established a revolving trade receivables securitization facility (the A/R Facility) with PNC Bank, National Association (PNC) as the administrative agent, and various lenders. In November 2019, the Company amended the A/R Facility to increase the maximum commitment made available under the Facility and extended the maturity date to November 2021. The amendment also included other modifications including the scope of receivables subject to the facility and related eligibility requirements, the adoption of a new benchmark for determining overnight funding rates and the fees and interest payable to the agent and lenders party thereto. The A/R Facility now provides for up to \$300 million in funding based on the availability of eligible receivables and other customary factors and conditions, of which none was outstanding as of December 31, 2020.

Under the A/R Facility, NCR sells and/or contributes certain of its U.S. trade receivables to a wholly-owned, bankruptcy-remote subsidiary as they are originated, and advances by the lenders to that subsidiary are secured by those trade receivables. The assets of this financing subsidiary are restricted as collateral for the payment of its obligations under the A/R Facility, and its assets and credit are not available to satisfy the debts and obligations owed to the creditors of the Company. The Company includes the assets, liabilities and results of operations of this financing subsidiary in its consolidated financial statements. The financing subsidiary owned \$428 million and \$603 million of outstanding accounts receivable as of December 31, 2020 and 2019, respectively, and these amounts are included in accounts receivable, net in the Consolidated Balance Sheets.

The financing subsidiary will pay annual commitments and other customary fees to the lenders, and advances by a lender under the A/R Facility will accrue interest (i) at a reserve-adjusted LIBOR rate or a base rate equal to the highest of (a) the applicable lender's prime rate or (b) the federal funds rate plus 0.50%, if the lender is funding as a committed lender under the terms of the A/R Facility, or (ii) based on commercial paper interest rates if the lender is funding as a commercial paper conduit lender. Advances may be prepaid at any time without premium or penalty.

The A/R Facility contains various customary affirmative and negative covenants and default and termination provisions, which provide for the acceleration of the advances under the A/R Facility in circumstances including, but not limited to, failure to pay interest or principal when due, breach of representation, warranty or covenant, certain insolvency events or failure to maintain the security interest in the trade receivables, and defaults under other material indebtedness.

*Debt Maturities* Maturities of debt outstanding, in principal amounts, at December 31, 2020 are summarized below:

In millions	Total	For the years ended December 31					Thereafter
		2021	2022	2023	2024	2025	
Debt maturities	\$ 3,318	\$ 8	\$ 9	\$ 7	\$ 83	\$ 408	\$ 2,803

*Fair Value of Debt* The Company utilized Level 2 inputs, as defined in the fair value hierarchy, to measure the fair value of the long-term debt, which, as of December 31, 2020 and 2019 was \$3.49 billion and \$3.70 billion, respectively. Management's fair value estimates were based on quoted prices for recent trades of NCR's long-term debt, quoted prices for similar instruments, and inquiries with certain investment communities.

## 6. INCOME TAXES

For the years ended December 31, income (loss) from continuing operations before income taxes consisted of the following:

In millions	2020	2019	2018
<b>Income (loss) before income taxes</b>			
United States	\$ (391)	\$ (25)	\$ (262)
Foreign	332	366	301
Total income (loss) from continuing operations before income taxes	\$ (59)	\$ 341	\$ 39

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

For the years ended December 31, income tax expense (benefit) consisted of the following:

In millions	2020	2019	2018
<b>Income tax expense (benefit)</b>			
<b>Current</b>			
Federal	\$ (9)	\$ 1	\$ 18
State	—	2	—
Foreign	68	78	42
<b>Deferred</b>			
Federal	(108)	(19)	(2)
State	(6)	—	1
Foreign	2	(335)	14
Total income tax expense (benefit)	<u>\$ (53)</u>	<u>\$ (273)</u>	<u>\$ 73</u>

The following table presents the principal components of the difference between the effective tax rate and the U.S. federal statutory income tax rate for the years ended December 31:

In millions	2020	2019	2018
Income tax expense (benefit) at the U.S. federal tax rate of 21%	\$ (12)	\$ 72	\$ 8
Foreign income tax differential	—	5	20
State and local income taxes (net of federal effect)	(4)	3	2
Other U.S. permanent book/tax differences	2	3	—
Meals and entertainment expense	1	2	2
Executive compensation	10	9	4
Employee share-based payments	3	2	3
Impact of intangible asset transfer	—	(245)	—
Gains/losses on distributions/entity liquidations	2	(12)	—
Foreign derived intangible income deduction	—	(7)	(1)
Change in branch tax status	—	(17)	(9)
Goodwill impairment	—	—	30
Research and development tax credits	(7)	(5)	(6)
Foreign tax law changes	(4)	5	—
U.S. valuation allowance <sup>(1)</sup>	(37)	(16)	16
U.S. tax reform	—	—	37
Foreign valuation allowance	6	(74)	2
Change in liability for unrecognized tax benefits <sup>(1)</sup>	(12)	4	(23)
Prior period adjustments	—	(1)	(11)
Other, net	(1)	(1)	(1)
Total income tax expense (benefit)	<u>\$ (53)</u>	<u>\$ (273)</u>	<u>\$ 73</u>

<sup>(1)</sup> Does not include the impact of items included in the U.S. Tax Reform category

NCR's tax provisions include a provision for income taxes in certain tax jurisdictions where its subsidiaries are profitable, but reflect only a portion of the tax benefits related to certain foreign subsidiaries' tax losses due to the uncertainty of the ultimate realization of future benefits from these losses. During 2020, our tax rate was impacted by a \$48 million benefit from the release of a valuation allowance against U.S. foreign tax credits and the re-establishment of expected foreign tax credit offsets to unrecognized tax benefits. During 2019, the tax rate was impacted by the transfer of certain intangible assets among our wholly-owned subsidiaries, creating a net tax benefit of \$264 million. The tax rate was also impacted by foreign valuation allowance releases of \$74 million. During 2018, the tax rate was impacted by a \$37 million expense relating to the Tax Cuts and Jobs Act of 2017 enacted on December 22, 2017.



**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

In the first quarter of 2020, the Company identified and recorded income tax benefits of \$5 million related to an error in the calculation of the permanent differences on executive stock compensation and the write-off of income tax payables incorrectly recorded in prior periods. In the fourth quarter of 2020, the Company identified and recorded income tax expense to correct for errors which originated in prior periods totaling \$10 million, which included \$6 million related to an error in the calculation of the provision for unrecognized tax benefits. The Company corrected for these immaterial errors as out of period adjustments in the periods identified which resulted in a net \$5 million out of period adjustment for the year ended December 31, 2020.

NCR did not provide additional U.S. income tax or foreign withholding taxes, if any, on approximately \$3.4 billion of undistributed earnings of its foreign subsidiaries, given the intention continues to be that those earnings are reinvested indefinitely. The amount of unrecognized deferred tax liability associated with these indefinitely reinvested earnings is approximately \$200 million. The unrecognized deferred tax liability is made up of a combination of U.S. and state income taxes and foreign withholding taxes.

We regularly review our deferred tax assets for recoverability and establish a valuation allowance if it is more likely than not that some portion or all of the deferred tax asset will not be realized. The determination as to whether a deferred tax asset will be realized is made on a jurisdictional basis and is based on the evaluation of positive and negative evidence. This evidence includes historical taxable income/loss, projected future taxable income, the expected timing of the reversal of existing temporary differences and the implementation of tax planning strategies.

Deferred income tax assets and liabilities included in the Consolidated Balance Sheets as of December 31 were as follows:

In millions	2020	2019
<b>Deferred income tax assets</b>		
Employee pensions and other benefits	\$ 229	\$ 243
Other balance sheet reserves and allowances	272	182
Tax loss and credit carryforwards	667	625
Capitalized research and development	44	47
Lease liabilities	91	104
Intangibles	123	127
Property, plant and equipment	11	11
Other	13	9
Total deferred income tax assets	<u>1,450</u>	<u>1,348</u>
Valuation allowance	<u>(341)</u>	<u>(352)</u>
Net deferred income tax assets	<u>1,109</u>	<u>996</u>
<b>Deferred income tax liabilities</b>		
Right of use assets	90	102
Capitalized software	78	98
Total deferred income tax liabilities	<u>168</u>	<u>200</u>
Total net deferred income tax assets	<u>\$ 941</u>	<u>\$ 796</u>

NCR has previously recorded valuation allowances related to certain deferred tax assets due to the uncertainty of the ultimate realization of the future benefits from those assets. The recorded valuation allowances cover deferred tax assets, primarily tax loss carryforwards and branch basket foreign tax credits, in tax jurisdictions where there is uncertainty as to the ultimate realization of those tax losses and credits. As of December 31, 2020, the Company's net deferred tax assets (without valuation allowances) in the U.S. totaled approximately \$469 million. For the three year period ended December 31, 2020, the U.S. had a cumulative net loss from continuing operations before income taxes, as adjusted for permanent differences, which is generally considered a negative indicator of the Company's ability to realize the benefits of those assets. However, the Company evaluated the realizability of the U.S. net deferred tax assets by weighing positive and negative evidence, including our history of U.S. pre-tax income adjusted for permanent differences, the impact of the COVID-19 pandemic on our U.S. results in 2020 and in the near-term, projected U.S. taxable income, and the length of time over which the Company's deferred tax assets relating to net operating losses, general basket foreign tax credits, interest limitation carryforward, research and development credits and a variety of temporary differences may be realized. A specific focus of the evaluation was the realizability of the

**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

Company's general basket foreign tax credit carryforwards, which expire on or before December 31, 2025. Through this assessment, realization of the related benefits was determined to be more likely than not. If the Company is unable to generate sufficient future U.S. taxable income of the proper source in the time period within which the temporary differences underlying our deferred tax assets become deductible, or before the expiration of our loss and credit carryforwards, additional valuation allowances could be required in the future.

As of December 31, 2020, NCR had U.S. federal, U.S. state (tax effected), and foreign tax attribute carryforwards of approximately \$1.6 billion. The net operating loss carryforwards that are subject to expiration will expire in the years 2021 through 2039. This includes U.S. tax credit carryforwards of \$279 million, which expire in the years 2021 through 2040. As a result of stock ownership changes our U.S. tax attributes could be subject to limitations under Section 382 of the U.S. Internal Revenue Code of 1986, as amended, if further material stock ownership changes occur.

The aggregate changes in the balance of our gross unrecognized tax benefits were as follows for the years ended December 31:

In millions	2020	2019	2018
Gross unrecognized tax benefits - January 1	\$ 121	\$ 110	\$ 196
Increases related to tax positions from prior years	15	7	9
Decreases related to tax positions from prior years	(6)	(4)	(50)
Increases related to tax provisions taken during the current year	6	14	9
Settlements with tax authorities	(23)	(5)	(45)
Lapses of statutes of limitation	(10)	(1)	(9)
<b>Total gross unrecognized tax benefits - December 31</b>	<b>\$ 103</b>	<b>\$ 121</b>	<b>\$ 110</b>

Of the total amount of gross unrecognized tax benefits as of December 31, 2020, \$61 million would affect NCR's effective tax rate if realized. The Company's liability arising from uncertain tax positions is recorded in income tax accruals and other current liabilities in the Consolidated Balance Sheets.

We recognized interest and penalties associated with uncertain tax positions as part of the provision for income taxes in our Consolidated Statements of Operations of \$5 million of benefit, \$2 million of expense, and \$9 million of benefit for the years ended December 31, 2020, 2019, and 2018, respectively. The gross amount of interest and penalties accrued as of December 31, 2020 and 2019 was \$30 million and \$35 million, respectively.

In the U.S., NCR files consolidated federal and state income tax returns where statutes of limitations generally range from three to five years. U.S. federal tax years remain open from 2017 forward. Years beginning on or after 2001 are still open to examination by certain foreign taxing authorities, including India, Egypt, and other major taxing jurisdictions.

During 2021, the Company expects to resolve certain tax matters related to U.S. and foreign jurisdictions. As of December 31, 2020, we estimate that it is reasonably possible that unrecognized tax benefits may decrease by \$10 million to \$13 million in the next 12 months due to the resolution of these tax matters.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

## 7. STOCK COMPENSATION PLANS

The Company recognizes all share-based payments as compensation expense in its financial statements based on their fair value. As of December 31, 2020, the Company's stock-based compensation consisted of restricted stock units, employee stock purchase plan and stock options. The Company recorded stock-based compensation expense for the years ended December 31 as follows:

In millions	2020	2019	2018
Restricted stock units	\$ 78	\$ 94	\$ 65
Employee stock purchase plan	6	4	4
Stock options	24	9	4
Stock-based compensation expense	108	107	73
Tax benefit	(13)	(12)	(10)
Total stock-based compensation (net of tax)	\$ 95	\$ 95	\$ 63

Approximately 30 million shares remain authorized to be issued under the 2017 Stock Incentive Plan (SIP). Details of the Company's stock-based compensation plans are discussed below.

### Restricted Stock Units

The SIP provides for the grant of several different forms of stock-based compensation, including restricted stock units. Restricted stock units can have service-based and/or performance-based vesting with performance goals being established by the Compensation and Human Resource Committee of the Company's Board of Directors. Any grant of restricted stock units is generally subject to a vesting period of 12 months to 48 months, to the extent permitted by the SIP. Performance-based grants conditionally vest upon achievement of future performance goals based on performance criteria such as the Company's achievement of specific return on capital and/or other financial metrics (as defined in the SIP) during the performance period. Performance-based grants must be earned, based on performance, before the actual number of shares to be awarded is known. The Compensation and Human Resource Committee considers the likelihood of meeting the performance criteria based upon estimates and other relevant data, and certifies performance based on its analysis of achievement against the performance criteria. A recipient of restricted stock units does not have the rights of a stockholder and is subject to restrictions on transferability and risk of forfeiture. Other terms and conditions applicable to any award of restricted stock units will be determined by the Compensation and Human Resource Committee and set forth in the agreement relating to that award.

The following table reports restricted stock unit activity during the year ended December 31, 2020:

Shares in thousands	Number of Units	Weighted Average Grant-Date Fair Value per Unit
Unvested shares as of January 1	4,456	\$ 28.18
Shares granted	5,391	\$ 26.50
Shares vested	(2,642)	\$ 28.03
Shares forfeited	(547)	\$ 28.57
Unvested shares as of December 31	6,658	\$ 26.84

Stock-based compensation expense is recognized in the financial statements based upon fair value. The total fair value of units vested and distributed in the form of NCR common stock was \$77 million in 2020, \$86 million in 2019, and \$90 million in 2018. As of December 31, 2020, there was \$88 million of unrecognized compensation cost related to unvested restricted stock unit grants. The unrecognized compensation cost is expected to be recognized over a remaining weighted-average period of 0.9 years. The weighted average grant date fair value for restricted stock unit awards granted in 2019 and 2018 was \$24.31 and \$26.25, respectively.

The following table represents the composition of restricted stock unit grants in 2020:

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

Shares in thousands	Number of Units	Weighted Average Grant-Date Fair Value
Service-based units	825	\$ 30.43
Performance-based units	4,566	\$ 25.79
Total restricted stock units	5,391	\$ 26.50

On July 1, 2020, the Company granted market-based restricted stock units with 50% of the award vesting on January 1, 2022 and 50% of the award vesting on January 1, 2023. The number of awards that vest are subject to the performance of the Company's stock price from the date of grant to January 1, 2022. The fair value was determined to be \$21.74 based on using a Monte-Carlo simulation model and will be recognized over the requisite service period. The table below details the assumptions used in determining the fair value of the market-based restricted stock units.

	For the twelve months ended December 31, 2020
Dividend yield	— %
Risk-free interest rate	0.16 %
Expected volatility	53.64 %

Expected volatility for the market-based restricted stock units is calculated as the historical volatility of the Company's stock over a period of three years, as management believes this is the best representation of prospective trends. The risk-free interest rate was determined based on a blend of the one and two year U.S. Treasury yield curves in effect at the time of the grant.

### Stock Options

The SIP also provides for the grant of stock options to purchase shares of NCR common stock. The Compensation and Human Resource Committee has discretion to determine the material terms and conditions of option awards under the SIP, provided that (i) the exercise price must be no less than the fair market value of NCR common stock (defined as the closing price) on the date of grant, (ii) the term must be no longer than ten years, and (iii) in no event shall the normal vesting schedule provide for vesting in less than one year. Other terms and conditions of an award of stock options will be determined by the Compensation and Human Resource Committee as set forth in the agreement relating to that award. The Compensation and Human Resource Committee has authority to administer the SIP, except that the Committee on Directors and Governance of the Company's Board of Directors will administer the SIP with respect to non-employee members of the Board of Directors. New shares of the Company's common stock are issued as a result of stock option exercises.

During the year ended December 31, 2020, stock options granted were premium-priced stock options with an exercise price equal to either 110% or 115% of the closing stock price on the date of the grant. The weighted average exercise price of the stock options granted in the year ended December 31, 2020 was \$36.26. The weighted average fair value of the option grants was \$7.64 for the year ended December 31, 2020 based on using a Monte-Carlo simulation model and will be recognized over the requisite service period. These option grants have a 7 year contractual term that vest at the end of 36 months.

During the year ended December 31, 2019, stock compensation expense for stock options was recognized in the financial statements based upon grant date fair value and was computed using the Black-Scholes option-pricing model. The weighted average fair value of option grants were estimated based on the below weighted average assumptions, which was \$8.07. The stock options were granted with a 7 year contractual term that will vest over 48 months.

The table below details the assumptions used in determining the fair value of the option grants:

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

	For the year ended December 31, 2020	For the year ended December 31, 2019
Dividend yield	—	—
Risk-free interest rate	1.34 %	2.50 %
Expected volatility	34.63 %	34.79 %
Expected holding period - years	3.7	3.90

Expected volatility is calculated as the historical volatility of the Company's stock over a period equal to the expected term of the options, as management believes this is the best representation of prospective trends. The Company uses historical data to estimate option exercise and employee terminations within the valuation model. The expected holding period represents the period of time that options are expected to be outstanding. For the options granted during the year ended December 31, 2020, the seven-year U.S. Treasury yield curve was used to determine the risk-free interest rate. For options granted during the year ended December 31, 2019, the risk-free interest rate was determined based on a blend of the three and five-year U.S. Treasury yield curves in effect at the time of grant.

The following table summarizes the Company's stock option activity for the year ended December 31, 2020:

Shares in thousands	Shares Under Option	Weighted Average Exercise Price per Share	Weighted Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value (in millions)
Outstanding as of January 1	4,559	\$ 28.08		
Granted	5,871	\$ 36.26		
Exercised	(105)	\$ 21.82		
Forfeited or expired	(527)	\$ 32.31		
Outstanding as of December 31	9,798	\$ 32.82	5.50	\$ 50.01
Fully vested and expected to vest as of December 31	7,978	\$ 33.78	5.77	\$ 33.73
Exercisable as of December 31	1,820	\$ 28.62	4.35	\$ 16.28

As of December 31, 2020, the total unrecognized compensation cost of \$43 million related to unvested stock option grants is expected to be recognized over a weighted average period of approximately 1.1 years.

The total intrinsic value of all options exercised was \$1 million in 2020, \$1 million in 2019, and \$4 million in 2018. Cash received from option exercises under all share-based payment arrangements was \$2 million in 2020, \$2 million in 2019, and \$4 million in 2018. There was no tax benefit realized from these exercises in 2020 and 2019. The tax benefit realized from option exercises was \$1 million in 2018.

### Employee Stock Purchase Plan

The Company's amended Employee Stock Purchase Plan (ESPP) provides employees a 15% discount on stock purchases using a three-month look-back feature where the discount is applied to the stock price that represents the lower of NCR's closing stock price on either the first day or the last day of each calendar quarter. Participants can contribute between 1% and 10% of their compensation. The amended ESPP was approved by NCR stockholders in 2016 and became effective January 1, 2017.

Employees purchased approximately 1.3 million shares in 2020, 0.8 million shares in 2019, and 0.7 million shares in 2018, for approximately \$21 million in 2020, \$18 million in 2019 and \$17 million in 2018. A total of 4 million shares were originally authorized to be issued under the ESPP before its amendment. Under the amended ESPP, 10 million shares were newly authorized to be issued, plus any shares remaining unissued under the prior ESPP after the last 2016 purchase date. Approximately 7.6 million authorized shares remain unissued under our amended ESPP as of December 31, 2020.

## 8. EMPLOYEE BENEFIT PLANS

*Pension, Postretirement and Postemployment Plans* NCR sponsors defined benefit pension plans. NCR's U.S. pension plan no longer offers additional benefits and is closed to new participants. Internationally, the defined benefit plans are based primarily upon compensation and years of service. Certain international plans also no longer offer additional benefits and are closed to

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

new participants. NCR's funding policy is to contribute annually no less than the minimum required by applicable laws and regulations. Assets of NCR's defined benefit plans are primarily invested in corporate and government debt securities, common and commingled trusts, publicly traded common stocks, real estate investments, and cash or cash equivalents.

NCR recognizes the funded status of each applicable plan on the Consolidated Balance Sheets. Each overfunded plan is recognized as an asset and each underfunded plan is recognized as a liability. For pension plans, changes in the fair value of plan assets and net actuarial gains or losses are recognized upon remeasurement, which is at least annually in the fourth quarter of each year. For postretirement and postemployment plans, changes to the funded status are recognized as a component of other comprehensive loss in stockholders' equity.

NCR sponsors a U.S. postretirement benefit plan that no longer offers benefits to U.S. participants who had not reached a certain age and years of service with NCR. The plan provides medical care benefits to retirees and their eligible dependents. Non-U.S. employees are typically covered under government-sponsored programs, and NCR generally does not provide postretirement benefits other than pensions to non-U.S. retirees. NCR generally funds these benefits on a pay-as-you-go basis.

NCR offers various postemployment benefits to involuntarily terminated and certain inactive employees after employment but before retirement. These benefits are paid in accordance with NCR's established postemployment benefit practices and policies. Postemployment benefits include mainly severance as well as continuation of healthcare benefits and life insurance coverage while on disability. NCR provides appropriate accruals for these postemployment benefits. These postemployment benefits are funded on a pay-as-you-go basis.

*Pension Plans* Reconciliation of the beginning and ending balances of the benefit obligations for NCR's pension plans are as follows:

In millions	U.S. Pension Benefits		International Pension Benefits		Total Pension Benefits	
	2020	2019	2020	2019	2020	2019
<b>Change in benefit obligation</b>						
Benefit obligation as of January 1	\$ 1,954	\$ 1,763	\$ 1,174	\$ 1,092	\$ 3,128	\$ 2,855
Net service cost	—	—	6	7	6	7
Interest cost	51	66	13	19	64	85
Amendment	—	—	5	—	5	—
Actuarial (gain) loss	168	229	86	112	254	341
Benefits paid	(106)	(104)	(111)	(76)	(217)	(180)
Plan participant contributions	—	—	1	1	1	1
Currency translation adjustments	—	—	72	19	72	19
Benefit obligation as of December 31	\$ 2,067	\$ 1,954	\$ 1,246	\$ 1,174	\$ 3,313	\$ 3,128
Accumulated benefit obligation as of December 31	\$ 2,067	\$ 1,954	\$ 1,235	\$ 1,163	\$ 3,302	\$ 3,117

A reconciliation of the beginning and ending balances of the fair value of the plan assets of NCR's pension plans are as follows:

In millions	U.S. Pension Benefits		International Pension Benefits		Total Pension Benefits	
	2020	2019	2020	2019	2020	2019
<b>Change in plan assets</b>						
Fair value of plan assets as of January 1	\$ 1,377	\$ 1,269	\$ 1,058	\$ 953	\$ 2,435	\$ 2,222
Actual return on plan assets	187	212	99	128	286	340
Company contributions	70	—	19	23	89	23
Benefits paid	(106)	(104)	(111)	(76)	(217)	(180)
Currency translation adjustments	—	—	53	29	53	29
Plan participant contributions	—	—	—	1	—	1
Fair value of plan assets as of December 31	\$ 1,528	\$ 1,377	\$ 1,118	\$ 1,058	\$ 2,646	\$ 2,435

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

The following table presents the funded status and the reconciliation of the funded status to amounts recognized in the Consolidated Balance Sheets and in accumulated other comprehensive loss as of December 31:

In millions	U.S. Pension Benefits		International Pension Benefits		Total Pension Benefits	
	2020	2019	2020	2019	2020	2019
Funded Status	\$ (539)	\$ (577)	\$ (128)	\$ (116)	\$ (667)	\$ (693)
<b>Amounts recognized in the Consolidated Balance Sheets</b>						
Noncurrent assets	\$ —	\$ —	\$ 199	\$ 178	\$ 199	\$ 178
Current liabilities	—	—	(15)	(13)	(15)	(13)
Noncurrent liabilities	(539)	(577)	(312)	(281)	(851)	(858)
Net amounts recognized	\$ (539)	\$ (577)	\$ (128)	\$ (116)	\$ (667)	\$ (693)
<b>Amounts recognized in accumulated other comprehensive loss</b>						
Prior service cost	—	—	24	20	24	20
Total	\$ —	\$ —	\$ 24	\$ 20	\$ 24	\$ 20

For pension plans with accumulated benefit obligations in excess of plan assets, the projected benefit obligation, accumulated benefit obligation and fair value of assets were \$2,366 million, \$2,363 million, and \$1,531 million, respectively, as of December 31, 2020, and \$2,222 million, \$2,217 million and \$1,380 million, respectively, as of December 31, 2019.

The net periodic benefit (income) cost of the pension plans for the years ended December 31 was as follows:

In millions	U.S. Pension Benefits			International Pension Benefits			Total Pension Benefits		
	2020	2019	2018	2020	2019	2018	2020	2019	2018
Net service cost	\$ —	\$ —	\$ —	\$ 6	\$ 7	\$ 7	\$ 6	\$ 7	\$ 7
Interest cost	51	66	61	13	19	20	64	85	81
Expected return on plan assets	(36)	(43)	(43)	(28)	(31)	(32)	(64)	(74)	(75)
Amortization of prior service cost	—	—	—	1	1	1	1	1	1
Actuarial (gain) loss	18	60	(29)	16	15	(16)	34	75	(45)
Net periodic benefit (income) cost	\$ 33	\$ 83	\$ (11)	\$ 8	\$ 11	\$ (20)	\$ 41	\$ 94	\$ (31)

Actuarial losses in 2020 and 2019 were primarily due to a decrease in the discount rate. Actuarial gains in 2018 were due to an increase in the discount rate as well as a favorable impact from a mortality update in the United Kingdom.

The weighted average rates and assumptions used to determine benefit obligations as of December 31 were as follows:

	U.S. Pension Benefits		International Pension Benefits		Total Pension Benefits	
	2020	2019	2020	2019	2020	2019
Discount rate	2.4 %	3.1 %	0.9 %	1.4 %	1.8 %	2.5 %
Rate of compensation increase	N/A	N/A	0.9 %	0.9 %	0.9 %	0.9 %

The weighted average rates and assumptions used to determine net periodic benefit (income) cost for the years ended December 31 were as follows:

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

	U.S. Pension Benefits			International Pension Benefits			Total Pension Benefits		
	2020	2019	2018	2020	2019	2018	2020	2019	2018
Discount rate - Service Cost	N/A	N/A	N/A	<b>0.7 %</b>	1.6 %	1.4 %	<b>0.7 %</b>	1.6 %	1.4 %
Discount rate - Interest Cost	<b>2.7 %</b>	3.8 %	3.2 %	<b>1.2 %</b>	1.8 %	1.6 %	<b>2.1 %</b>	3.1 %	2.6 %
Expected return on plan assets	<b>2.8 %</b>	3.6 %	3.1 %	<b>2.6 %</b>	3.2 %	3.0 %	<b>2.7 %</b>	3.4 %	3.1 %
Rate of compensation increase	N/A	N/A	N/A	<b>0.9 %</b>	1.0 %	0.9 %	<b>0.9 %</b>	1.0 %	0.9 %

The weighted-average cash balance interest crediting rate for the Company's cash balance defined benefit plans was 1.1% and 1.2% for the years ended December 31, 2020 and 2019, respectively.

The discount rate used to determine U.S. benefit obligations as of December 31, 2020 was derived by matching the plans' expected future cash flows to the corresponding yields from the Aon Hewitt AA Bond Universe Curve. This yield curve has been constructed to represent the available yields on high-quality, fixed-income investments across a broad range of future maturities. International discount rates were determined by examining interest rate levels and trends within each country, particularly yields on high-quality, long-term corporate bonds, relative to our future expected cash flows.

NCR employs a building block approach as its primary approach in determining the long-term expected rate of return assumptions for plan assets. Historical market returns are studied and long-term relationships between equities and fixed income are preserved consistent with the widely accepted capital market principle that assets with higher volatilities generate higher returns over the long run. Current market factors, such as inflation and interest rates are evaluated before long-term capital market assumptions are determined. The expected long-term portfolio return is established for each plan via a building block approach with proper rebalancing consideration. The result is then adjusted to reflect additional expected return from active management net of plan expenses. Historical plan returns, the expectations of other capital market participants, and peer data may be used to review and assess the results for reasonableness and appropriateness.

*Plan Assets* The weighted average asset allocations as of December 31, 2020 and 2019 by asset category are as follows:

	U.S. Pension Fund			International Pension Fund		
	Actual Allocation of Plan Assets as of December 31		Target Asset Allocation	Actual Allocation of Plan Assets as of December 31		Target Asset Allocation
	2020	2019		2020	2019	
Equity securities	— %	— %	0 - 0%	<b>19 %</b>	23 %	12 - 27%
Debt securities	<b>94 %</b>	99 %	95 - 100%	<b>58 %</b>	56 %	54 - 72%
Real estate	— %	— %	0 - 2%	<b>14 %</b>	12 %	6 - 14%
Other	<b>6 %</b>	1 %	0 - 3%	<b>9 %</b>	9 %	4 - 9%
Total	<b>100 %</b>	100 %		<b>100 %</b>	100 %	

The fair value of plan assets as of December 31, 2020 and 2019 by asset category is as follows:



**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

In millions	Notes	U.S.					International				
		Fair Value as of December 31, 2020	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Not Subject to Leveling	Fair Value as of December 31, 2020	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Not Subject to Leveling
<b>Assets</b>											
<i>Equity securities:</i>											
Common stock	1	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 57	\$ 57	\$ —	\$ —	\$ —
<i>Fixed income securities:</i>											
Government securities	2	221	—	221	—	—	—	—	—	—	—
Corporate debt	3	1,011	—	1,011	—	—	104	—	104	—	—
<i>Other types of investments:</i>											
Money market funds	4	5	—	—	—	5	10	—	—	—	10
Common and commingled trusts - Equities	4	—	—	—	—	—	149	—	—	—	149
Common and commingled trusts - Bonds	4	167	—	—	—	167	515	—	—	—	515
Common and commingled trusts - Short Term Investments	4	94	—	—	—	94	40	—	—	—	40
Common and commingled trusts - Balanced	4	—	—	—	—	—	90	—	—	—	90
Partnership/joint venture interests - Real estate	5	—	—	—	—	—	—	—	—	—	—
Partnership/joint venture interests - Other	5	2	—	—	—	2	—	—	—	—	—
Mutual funds	4	28	28	—	—	—	—	—	—	—	—
Insurance products	4	—	—	—	—	—	1	—	1	—	—
Real estate and other	5	—	—	—	—	—	152	—	—	152	—
<b>Total</b>		<b>\$ 1,528</b>	<b>\$ 28</b>	<b>\$ 1,232</b>	<b>\$ —</b>	<b>\$ 268</b>	<b>\$ 1,118</b>	<b>\$ 57</b>	<b>\$ 105</b>	<b>\$ 152</b>	<b>\$ 804</b>

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

In millions	Notes	U.S.					International				
		Fair Value as of December 31, 2019	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Not Subject to Leveling	Fair Value as of December 31, 2019	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Not Subject to Leveling
<b>Assets</b>											
<i>Equity securities:</i>											
Common stock	1	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 53	\$ 53	\$ —	\$ —	\$ —
<i>Fixed income securities:</i>											
Government securities	2	209	—	209	—	—	—	—	—	—	—
Corporate debt	3	934	—	934	—	—	103	—	103	—	—
<i>Other types of investments:</i>											
Money market funds	4	12	—	—	—	12	10	—	—	—	10
Common and commingled trusts - Equities	4	—	—	—	—	—	184	—	—	—	184
Common and commingled trusts - Bonds	4	157	—	—	—	157	470	—	—	—	470
Common and commingled trusts - Short Term Investments	4	19	—	—	—	19	21	—	—	—	21
Common and commingled trusts - Balanced	4	—	—	—	—	—	85	—	—	—	85
Partnership/joint venture interests - Real estate	5	1	—	—	—	1	—	—	—	—	—
Partnership/joint venture interests - Other	5	2	—	—	—	2	—	—	—	—	—
Mutual funds	4	43	43	—	—	—	—	—	—	—	—
Insurance products	4	—	—	—	—	—	1	—	1	—	—
Real estate and other	5	—	—	—	—	—	131	—	—	—	131
<b>Total</b>		<b>\$ 1,377</b>	<b>\$ 43</b>	<b>\$ 1,143</b>	<b>\$ —</b>	<b>\$ 191</b>	<b>\$ 1,058</b>	<b>\$ 53</b>	<b>\$ 104</b>	<b>\$ 131</b>	<b>\$ 770</b>

**Notes:**

- Common stocks are valued based on quoted market prices at the closing price as reported on the active market on which the individual securities are traded.
- Government securities are valued based on yields currently available on comparable securities of issuers with similar credit ratings. When quoted prices are not available for identical or similar securities, the security is valued under a discounted cash flows approach that maximizes observable inputs, such as current yields on similar instruments but includes adjustments for certain risks that may not be observable, such as credit and liquidity risks.
- Corporate debt is valued primarily based on observable market quotations for similar bonds at the closing price reported on the active market on which the individual securities are traded. When such quoted prices are not available, the bonds are valued using a discounted cash flows approach using current yields on similar instruments of issuers with similar credit ratings.
- Common/collective trusts and registered investment companies (RICs) such as mutual funds are valued using a Net Asset Value (NAV) provided by the manager of each fund. The NAV is based on the underlying net assets owned by the fund, divided by the number of shares or units outstanding. The fair value of the underlying securities within the fund, which are generally traded on an active market, are valued at the closing price reported on the active market on which those individual securities are traded. For investments not traded on an active market, or for which a quoted price is not publicly available, a variety of unobservable valuation methodologies, including discounted cash flow, market multiple and cost valuation approaches, are employed by the fund manager or independent third party to value investments.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

5. Partnership/joint ventures are valued based on the fair value of the underlying securities within the fund, which include investments both traded on an active market and not traded on an active market. For those investments that are traded on an active market, the values are based on the closing price reported on the active market on which those individual securities are traded. For investments not traded on an active market, or for which a quoted price is not publicly available, a variety of unobservable valuation methodologies, including discounted cash flow, market multiples and cost valuation approaches, are employed by the fund manager to value investments.

The following table presents the reconciliation of the beginning and ending balances of those plan assets classified within Level 3 of the valuation hierarchy. When the determination is made to classify the plan assets within Level 3, the determination is based upon the significance of the unobservable inputs to the overall fair value measurement.

In millions	International Pension Plans	
Balance, December 31, 2018	\$	129
Realized and unrealized gains and losses, net		2
Purchases, sales and settlements, net		—
Transfers, net		—
Balance, December 31, 2019	\$	131
Realized and unrealized gains and losses, net		21
Purchases, sales and settlements, net		—
Transfers, net		—
<b>Balance, December 31, 2020</b>	<b>\$</b>	<b>152</b>

*Investment Strategy* NCR has historically employed a total return investment approach, whereby a mix of fixed-income, equities and real estate investments are used to maximize the long-term return of plan assets subject to a prudent level of risk. The risk tolerance is established for each plan through a careful consideration of plan liabilities, plan funded status and corporate financial condition. To reduce volatility in the value of assets held by the U.S. pension plan, the asset allocation has been and continues to be a portfolio comprising a substantial portion of fixed income assets as of December 31, 2020. However, as we review the plan's funding requirements, we may, in consultation with an independent advisor on asset allocation strategy investment policy and objectives, choose to rebalance the asset allocation to capture additional returns to reduce future cash funding requirements.

The investment portfolios contain primarily fixed-income investments, which are diversified across U.S. and non-U.S. issuers, type of fixed-income security (i.e., government bonds, corporate bonds, mortgage-backed securities) and credit quality. The investment portfolios also contain a blend of equity investments, which are diversified across U.S. and non-U.S. stocks, small and large capitalization stocks, and growth and value stocks, primarily of non-U.S. issuers. Where applicable, real estate investments are made through real estate securities, partnership interests or direct investment and are diversified by property type and location. Other assets, such as cash or private equity are used judiciously to improve portfolio diversification and enhance risk-adjusted portfolio returns. Derivatives may be used to adjust market exposures in an efficient and timely manner. Due to the timing of security purchases and sales, cash held by fund managers is classified in the same asset category as the related investment. Rebalancing algorithms are applied to keep the asset mix of the plans from deviating excessively from their targets. Investment risk is measured and monitored on an ongoing basis through regular performance reporting, investment manager reviews, actuarial liability measurements and periodic investment strategy reviews.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

*Postretirement Plans* Reconciliation of the beginning and ending balances of the benefit obligation for NCR's U.S. postretirement plan is as follows:

In millions	Postretirement Benefits	
	2020	2019
<b>Change in benefit obligation</b>		
Benefit obligation as of January 1	\$ 17	\$ 18
Interest cost	—	1
Actuarial gain	—	—
Plan participant contributions	—	—
Benefits paid	(1)	(2)
Benefit obligation as of December 31	<u>\$ 16</u>	<u>\$ 17</u>

The following table presents the funded status and the reconciliation of the funded status to amounts recognized in the Consolidated Balance Sheets and in accumulated other comprehensive loss as of December 31:

In millions	Postretirement Benefits	
	2020	2019
Benefit obligation	<u>\$ (16)</u>	<u>\$ (17)</u>
<b>Amounts recognized in the Consolidated Balance Sheets</b>		
Current liabilities	\$ (2)	\$ (2)
Noncurrent liabilities	(14)	(15)
Net amounts recognized	<u>\$ (16)</u>	<u>\$ (17)</u>
<b>Amounts recognized in accumulated other comprehensive loss</b>		
Net actuarial loss	\$ 6	\$ 7
Prior service benefit	—	(3)
Total	<u>\$ 6</u>	<u>\$ 4</u>

The net periodic benefit income of the postretirement plan for the years ended December 31 was:

In millions	Postretirement Benefits		
	2020	2019	2018
Interest cost	\$ —	\$ 1	\$ —
Amortization of:			
Prior service benefit	(3)	(5)	(5)
Actuarial loss	1	—	1
Net periodic benefit income	<u>\$ (2)</u>	<u>\$ (4)</u>	<u>\$ (4)</u>

The assumptions utilized in accounting for postretirement benefit obligations as of December 31 and for postretirement benefit income for the years ended December 31 were:

	Postretirement Benefit Obligations			Postretirement Benefit Costs		
	2020	2019	2018	2020	2019	2018
Discount rate	1.4 %	2.5 %	3.7 %	2.5 %	3.7 %	3.1 %

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

Assumed healthcare cost trend rates as of December 31 were:

	2020		2019	
	Pre-65 Coverage	Post-65 Coverage	Pre-65 Coverage	Post-65 Coverage
Healthcare cost trend rate assumed for next year	6.5 %	5.8 %	6.7 %	5.9 %
Rate to which the cost trend rate is assumed to decline (the ultimate trend rate)	5.0 %	5.0 %	5.0 %	5.0 %
Year that the rate reaches the ultimate rate	2027	2027	2027	2027

*Postemployment Benefits* Reconciliation of the beginning and ending balances of the benefit obligation for NCR's postemployment plan was:

In millions	Postemployment Benefits	
	2020	2019
<b>Change in benefit obligation</b>		
Benefit obligation as of January 1	\$ 126	\$ 139
Service cost	42	31
Interest cost	3	3
Amendments	(4)	—
Benefits paid	(39)	(35)
Foreign currency exchange	3	(1)
Actuarial (gain) loss	7	(11)
Benefit obligation as of December 31	<u>\$ 138</u>	<u>\$ 126</u>

The following table presents the funded status and the reconciliation of the unfunded status to amounts recognized in the Consolidated Balance Sheets and in accumulated other comprehensive loss at December 31:

In millions	Postemployment Benefits	
	2020	2019
Benefit obligation	<u>\$ (138)</u>	<u>\$ (126)</u>
<b>Amounts recognized in the Consolidated Balance Sheets</b>		
Current liabilities	\$ (32)	\$ (30)
Noncurrent liabilities	(106)	(96)
Net amounts recognized	<u>\$ (138)</u>	<u>\$ (126)</u>
<b>Amounts recognized in accumulated other comprehensive loss</b>		
Net actuarial gain	\$ (23)	\$ (38)
Prior service benefit	(8)	(6)
Total	<u>\$ (31)</u>	<u>\$ (44)</u>

**NCR Corporation**  
**Notes to Consolidated Financial Statements—(Continued)**

The net periodic benefit cost of the postemployment plan for the years ended December 31 was:

In millions	Postemployment Benefits		
	2020	2019	2018
Service cost	\$ 42	\$ 31	\$ 43
Interest cost	3	3	3
Amortization of:			
Prior service benefit	(2)	(2)	(5)
Actuarial gain	(4)	(3)	(1)
Net benefit cost	<u>\$ 39</u>	<u>\$ 29</u>	<u>\$ 40</u>

The weighted average assumptions utilized in accounting for postemployment benefit obligations as of December 31 and for postemployment benefit costs for the years ended December 31 were:

	Postemployment Benefit Obligations		Postemployment Benefit Costs		
	2020	2019	2020	2019	2018
Discount rate	1.4 %	1.8 %	1.8 %	2.4 %	2.3 %
Salary increase rate	2.0 %	1.8 %	1.8 %	1.9 %	1.9 %
Involuntary turnover rate	3.8 %	3.8 %	3.8 %	4.3 %	4.8 %

*Cash Flows Related to Employee Benefit Plans*

*Cash Contributions* NCR does not plan to contribute to the U.S. qualified pension plan in 2021, and plans to contribute approximately \$25 million to the international pension plans in 2021. The Company also plans to make contributions of approximately \$2 million to the U.S. postretirement plan and approximately \$39 million to the postemployment plan in 2021.

*Estimated Future Benefit Payments* NCR expects to make the following benefit payments reflecting past and future service from its pension, postretirement and postemployment plans:

In millions	International Pension Benefits		Total Pension Benefits		Postretirement Benefits		Postemployment Benefits	
Year	U.S. Pension Benefits							
2021	\$ 109	\$ 53	\$ 162	\$ 2	\$ 39			
2022	\$ 110	\$ 50	\$ 160	\$ 1	\$ 17			
2023	\$ 112	\$ 49	\$ 161	\$ 1	\$ 16			
2024	\$ 114	\$ 51	\$ 165	\$ 1	\$ 15			
2025	\$ 115	\$ 50	\$ 165	\$ 1	\$ 14			
2026-2030	\$ 571	\$ 242	\$ 813	\$ 3	\$ 62			

*Savings Plans* U.S. employees and many international employees participate in defined contribution savings plans. These plans generally provide either a specified percent of pay or a matching contribution on participating employees' voluntary elections. NCR's matching contributions typically are subject to a maximum percentage or level of compensation. Employee contributions can be made pre-tax, after-tax or a combination thereof. The expense under the U.S. plan was approximately \$32 million in 2020, \$27 million in 2019, and \$27 million in 2018. The expense under international and subsidiary savings plans was \$25 million in 2020, \$25 million in 2019, and \$24 million in 2018.

*Amounts to be Recognized* The amounts in accumulated other comprehensive loss that are expected to be recognized as components of net periodic benefit cost (income) during 2021 are as follows:

In millions	U.S. Pension Benefits		International Pension Benefits		Total Pension Benefits		Postretirement Benefits		Postemployment Benefits	
Prior service cost (benefit)	\$ —	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1	\$ (2)	\$ (2)
Actuarial loss (gain)	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ (2)

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

## 9. COMMITMENTS AND CONTINGENCIES

In the normal course of business, NCR is subject to various proceedings, lawsuits, claims and other matters, including, for example, those that relate to the environment and health and safety, labor and employment, employee benefits, import/export compliance, intellectual property, data privacy and security, product liability, commercial disputes and regulatory compliance, among others. Additionally, NCR is subject to diverse and complex laws and regulations, including those relating to corporate governance, public disclosure and reporting, environmental safety and the discharge of materials into the environment, product safety, import and export compliance, data privacy and security, antitrust and competition, government contracting, anti-corruption, and labor and human resources, which are rapidly changing and subject to many possible changes in the future. Compliance with these laws and regulations, including changes in accounting standards, taxation requirements, and federal securities laws among others, may create a substantial burden on, and substantially increase costs to NCR or could have an impact on NCR's future operating results. The Company has reflected all liabilities when a loss is considered probable and reasonably estimable in the Consolidated Financial Statements. We do not believe there is a reasonable possibility that losses exceeding amounts already recognized have been incurred, but there can be no assurances that the amounts required to satisfy alleged liabilities from such matters will not impact future operating results. Other than as stated below, the Company does not currently expect to incur material capital expenditures related to such matters. However, there can be no assurances that the actual amounts required to satisfy alleged liabilities from various lawsuits, claims, legal proceedings and other matters, including, but not limited to the Fox River and Kalamazoo River environmental matters and other matters discussed below, and to comply with applicable laws and regulations, will not exceed the amounts reflected in NCR's Consolidated Financial Statements or will not have a material adverse effect on its consolidated results of operations, capital expenditures, competitive position, financial condition or cash flows.

*Nashville Tornado* On March 3, 2020, one of our Global Fulfillment Centers, operated with a third-party logistics partner in Mount Juliet, Tennessee, was severely impacted by tornadoes in the greater Nashville area. We maintain substantial property damage insurance coverage for this Global Fulfillment Center and reached a final settlement with our insurance carrier and claims adjusters as of December 31, 2020. The Company determined approximately \$118 million of the inventory to be either a total loss or excess and obsolete as of December 31, 2020 and as such, was written-off with an offsetting insurance receivable recorded, which was included within other current assets in the Consolidated Balance Sheet with no net impact on cost of sales. As of December 31, 2020, we received a total of \$102 million as advances from the insurance carrier with \$16 million remaining as an insurance receivable. Additionally, our insurance policy also provides for business interruption coverage, including lost profits, and reimbursement for other expenses and costs that have been incurred relating to the damages and losses suffered. As of December 31, 2020, the Company has incurred \$26 million of other expenses, mainly related to expedite freight, professional services and contractor charges. These costs will be fully recovered based on the final settlement with \$8 million cash received during 2020 and the remaining \$18 million recorded as an insurance receivable as of December 31, 2020. Final cash payment was received in early January 2021.

*Boston Consulting Group* On November 6, 2019, Boston Consulting Group, Inc., a former consultant for the Company, commenced a lawsuit against the Company in the United States District Court for the District of New York. The Complaint in the matter alleges the Company breached two consulting agreements and sought in excess of \$80 million and other compensatory damages and equitable relief. The Company believed the allegations of money owed were grossly overstated, and the Company vigorously defended this lawsuit. In December 2020, the parties engaged in mediation directed to settlement of this matter, and in January 2021, the parties agreed to a final settlement.

**Environmental Matters** NCR's facilities and operations are subject to a wide range of environmental protection laws, and NCR has investigatory and remedial activities underway at a number of facilities that it currently owns or operates, or formerly owned or operated, to comply, or to determine compliance, with such laws. Also, NCR has been identified, either by a government agency or by a private party seeking contribution to site clean-up costs, as a potentially responsible party (PRP) at a number of sites pursuant to various state and federal laws, including the Federal Water Pollution Control Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and comparable state statutes. Other than the Fox River matter, the Kalamazoo River matter and the Ebina matter discussed below, we currently do not anticipate material expenses and liabilities from these environmental matters.

*Fox River* NCR is one of eight entities that were formally notified by governmental and other entities, such as local Native American tribes, that they are PRPs for environmental claims (under CERCLA and other statutes) arising out of the presence of polychlorinated biphenyls (PCBs) in sediments in the lower Fox River and in the Bay of Green Bay in Wisconsin. The other Fox River PRPs that received notices include Appleton Papers Inc. (API; now known as Appvion, Inc.), P.H. Glatfelter Company ("Glatfelter"), Georgia-Pacific Consumer Products LP (GP, successor to Fort James Operating Company), and others.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

NCR was identified as a PRP because of alleged PCB discharges from two carbonless copy paper manufacturing facilities it previously owned, which were located along the Fox River. NCR sold its facilities in 1978 to API. The parties have also contended that NCR is responsible for PCB discharges from paper mills owned by other companies because NCR carbonless copy paper "broke" was allegedly purchased by those other mills as a raw material.

The United States Environmental Protection Agency (USEPA) and Wisconsin Department of Natural Resources (together, the Governments) developed clean-up plans for the upper and lower parts of the Fox River and for portions of the Bay of Green Bay. On November 13, 2007, the Governments issued a unilateral administrative order (the 2007 Order) under CERCLA to the eight original PRPs, requiring them to perform remedial work under the Governments' clean-up plan for the lower parts of the river (operable units 2 through 5). In April 2009, NCR and API formed a limited liability company (the LLC), which entered into an agreement with an environmental remediation contractor to perform the work at the Fox River site. In-water dredging and remediation under the clean-up plan commenced shortly thereafter.

NCR and API, along with B.A.T Industries p.l.c. (BAT), share among themselves a portion of the cost of the Fox River clean-up and natural resource damages (NRD) based upon a 1998 agreement (the Cost Sharing Agreement), a 2005 arbitration award (subsequently confirmed as a judgment), and a September 30, 2014 Funding Agreement (the Funding Agreement). The Cost Sharing Agreement and the arbitration resolved disputes that arose out of the Company's 1978 sale of its Fox River facilities to API. The Cost Sharing Agreement and arbitration award resulted in a 45% share for NCR of the first \$75 million of such costs (a threshold that was reached in 2008), and a 40% share for amounts in excess of \$75 million. The Funding Agreement arose out of a 2012 to 2014 arbitration dispute between NCR and API, and provides for regular, ongoing funding of NCR incurred Fox River remediation costs via contributions, made to a new limited liability corporation created by the Funding Agreement, by BAT, API and, for 2014, API's indemnitor, Windward Prospects. The Funding Agreement creates an obligation on BAT and API to fund 50% of NCR's Fox River remediation costs from October 1, 2014 forward (API's Fox River-related obligations under the Funding Agreement were fully satisfied in 2016); the Funding Agreement also provides NCR contractual avenues for payment of, via direct and third-party sources, (1) the difference between BAT's and API's 60% obligation under the Cost Sharing Agreement and arbitration award on the one hand and their ongoing (since September 2014) 50% payments under the Funding Agreement on the other, as well as (2) the difference between the amount NCR received under the Funding Agreement and the amount owed to it under the Cost Sharing Agreement and arbitration award for the period from April 2012 through September 2014. As of December 31, 2020 and 2019, the receivable under the Funding Agreement was approximately \$54 million and \$53 million, respectively, and was included in other assets in the Consolidated Balance Sheet. The Company anticipates that it will collect sums related to the receivable after 2021, subject and pursuant to the terms of the Funding Agreement and related agreements. This receivable is not taken into account in calculating the Company's Fox River net reserve.

The Company's litigations relating to contribution and enforcement claims concerning the Fox River have been concluded. A proposed consent decree settlement (the CD settlement) with respect to the contribution action (a case originally filed by NCR and API) and the government enforcement action (a case originally filed by the federal and state governments against several PRPs, including the Company) was successfully negotiated by NCR and the federal and state governments and was approved on August 22, 2017 by the federal district court in Wisconsin that had been presiding over those cases. A final order of dismissal as to the Company in the contribution and government enforcement actions was subsequently entered; one party, Glatfelter, had appealed the approval of the CD settlement. On January 3, 2019, the United States lodged a proposed consent decree with the Wisconsin court, reflecting a settlement reached by the United States, Wisconsin and Glatfelter with respect to Glatfelter's Fox River liability under the government enforcement action; a component of that settlement was withdrawal of Glatfelter's appeal opposing the Company's CD settlement. On March 14, 2019, the Wisconsin court approved the Glatfelter consent decree, and on April 3, 2019, Glatfelter's appeal was dismissed.

The CD settlement has now resolved the remaining Fox River-related contribution and enforcement claims against the Company. The key components of the approved CD settlement include (1) the Company's commitment to complete the remediation of the Fox River, which has now been completed; (2) the Company's conditional agreement to waive its contribution claims against the two remaining defendants in the case, GP and Glatfelter; (3) the Company's agreement not to appeal the trial court's decision on divisibility of harm; (4) the Governments' agreement to include in the settlement so-called "contribution protection" in the Company's favor as to GP's and Glatfelter's contribution claims against the Company, the effect of which will be to extinguish those claims; (5) the Governments' agreement not to pursue the Company for the Governments' past oversight costs; and (6) the Governments' agreement to exercise prosecutorial discretion in pursuing other parties for future oversight costs and long-term monitoring and maintenance, with the Company retaining so-called "backstop" liability in the event that the other parties fail to pay future oversight costs or to perform long-term monitoring and maintenance. Additionally, although certain state law claims by GP and Glatfelter against the Company may not be affected directly by the



**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

CD settlement, the CD settlement provides that the Company's contribution claims against those two parties will revive if those parties attempt to assert any claims against the Company relating to the Fox River, including any state law claims.

In the quarter ending September 30, 2017, the remediation general contractor commenced an arbitration against the LLC, in a dispute over contract interpretation. The hearing on this matter was completed in June 2019, and the parties submitted post-trial briefs in August 2019. The amounts claimed by the contractor range from approximately \$46 million to approximately \$53 million; the Company disputed the claims and contested them vigorously during the hearing. In November 2019, having rejected substantial portions of the claims, the arbitration panel awarded the contractor approximately \$10 million. The Company's indemnitors and co-obligors, described below, were responsible for the majority of the award, with the Company's share being approximately 25% of the award.

With respect to the Company's prior dispute with API, which was generally superseded by the Funding Agreement, the Company received timely payments as they came due under the Funding Agreement. Although API filed for bankruptcy protection in October 2017, it had made all of the payments to the Company in connection with the Fox River that are required of it by the Funding Agreement.

NCR's eventual remediation liability, followed by long-term monitoring expected to be performed by others, will depend on a number of factors. In establishing the reserve, NCR attempts to estimate a range of reasonably possible outcomes for each of these factors, although each range is itself uncertain. NCR uses its best estimate within the range, if that is possible. Where there is a range of equally possible outcomes, and there is no amount within that range that is considered to be a better estimate than any other amount, NCR uses the low end of the range. The significant factors include: (1) the total remaining site costs, including the costs associated with decommissioning the site, the expected cost impact of which is expected to be neutral or non-material to the Company, including long-term monitoring following completion of the clean-up, and what parties are assigned to discharge the post-clean-up tasks (as noted, the Company no longer expects to bear long-term monitoring costs); (2) total NRD for the site and the share that NCR will bear (which is now resolved as to the Company); (3) the share of clean-up costs that NCR will bear (which is resolved under the CD settlement); (4) NCR's transaction and litigation costs to defend itself to the extent additional litigation is required with respect to claims brought by the general contractor; and (5) the share of NCR's payments that BAT will bear (which is governed by the Cost Sharing Agreement and the Funding Agreement, BAT has made all of the payments requested of it, and as discussed above; API is in bankruptcy and is not presumed likely to bear further shares of NCR's payments). With respect to NRD, in connection with a certain settlement entered into by other PRPs in 2015, the Government withdrew the NRD claims it had prosecuted on behalf of NRD trustees, including those NRD claims asserted against the Company.

Calculation of the Company's Fox River reserve is subject to several complexities, and it is possible there could be additional changes to some elements of the reserve over upcoming periods, although the Company is unable to predict or estimate such changes at this time. There can be no assurance that the clean-up and related expenditures and liabilities will not have a material effect on NCR's capital expenditures, earnings, financial condition, cash flows, or competitive position. As of December 31, 2020 and 2019, the gross reserve for the Fox River matter was approximately \$6 million and \$5 million, respectively. As of December 31, 2020 and 2019, the net reserve for the Fox River matter was approximately \$28 million and \$16 million, respectively. NCR contributes to the LLC to fund remediation activities and generally, by contract, has funded certain amounts of remediation expenses in advance. As of December 31, 2020 and 2019, approximately zero remained from this funding. NCR's reserve for the Fox River matter is reduced as the LLC makes payments to the remediation contractor and other vendors with respect to remediation activities.

Under a 1996 agreement, AT&T Corp. (AT&T) and Nokia (as the successor to Lucent Technologies and Alcatel-Lucent USA) are responsible severally (not jointly) for indemnifying NCR for certain portions of the amounts paid by NCR for the Fox River matter over a defined threshold and subject to certain offsets. (The agreement governs certain aspects of AT&T's divestiture of NCR and of what was then known as Lucent Technologies.) Those companies have made the payments requested of them by the Company on an ongoing basis.

*Kalamazoo River* In November 2010, USEPA issued a "general notice letter" to NCR with respect to the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Kalamazoo River site) in Michigan. Three other companies - International Paper, Mead Corporation, and Consumers Energy - also received general notice letters at or about the same time. USEPA asserts that the site is contaminated by various substances, primarily PCBs, as a result of discharges by various paper mills located along the river. USEPA does not claim that the Company made direct discharges into the Kalamazoo River, and NCR never had facilities at or near the Kalamazoo River site, but USEPA indicated that "NCR may be liable under Section 107 of CERCLA ... as an arranger, who by contract or agreement, arranged for the disposal, treatment and/or transportation of

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

hazardous substances at the Site." USEPA stated that it "may issue special notice letters to [NCR] and other PRPs for future RI/FS [remedial investigation / feasibility studies] and RD/RA [remedial design / remedial action] negotiations."

In connection with the Kalamazoo River site, in December 2010 the Company, along with two other defendants, was sued in federal court by three Georgia-Pacific (GP) affiliate corporations in a private-party contribution and cost recovery action for alleged pollution. The suit, pending in Michigan, asks that the Company and other defendants pay a "fair portion" of these companies' costs. Various removal and remedial actions remain to be decided upon and performed at the Kalamazoo River site, the total costs for which generally remain undetermined; in 2017, Records of Decisions were issued for two parts of the river, and in 2018 such a decision was issued for another part of the river, but such decisions for the majority of the work are expected to be made only over the next several years. The suit alleges that the Company is liable to the GP entities as an "arranger" under CERCLA. The initial phase of the case was tried in a Michigan federal court in February 2013; on September 26, 2013 the court issued a decision that held NCR was liable as an "arranger" as of at least March 1969. (PCB-containing carbonless copy paper was produced from approximately 1954 to April 1971, and the majority of contamination at the Kalamazoo River site had occurred prior to 1969). NCR preserved its right to appeal the September 2013 decision.

In the 2013 decision the Court did not determine NCR's share of the overall liability. Relative shares of liability for the four companies were tried to the court in a subsequent phase of the case in December 2015. In a ruling issued on March 29, 2018, the court addressed responsibility for the costs that GP had incurred in the past, totaling to approximately \$50 million (GP had sought approximately \$105 million, but \$55 million of those claims were removed by the court upon motions filed by the Company and other parties); NCR and GP were each assigned a 40% share of those costs, and the other two companies were assigned 15% and 5% as their allocations. The court entered a judgment in the case on June 19, 2018, in which it indicated that it would not allocate future costs, but would enter a declaratory judgment that the four companies together had responsibility for future costs, in amounts and shares to be determined. Cross-proceedings have been commenced to obtain recoveries from the other parties pursuant to the judgment; those proceedings were stayed pending the appeal referenced below.

In July 2018, the Company appealed to the United States Court of Appeals for the Sixth Circuit both the 2013 court decision, which it believes is in conflict with a decision from the Fox River trial court as to Operable Unit 1 of that site and an affirmance of that decision from the Court of Appeals for the Seventh Circuit, and the 2018 court decision, on various legal grounds. The Company filed a bond to stay any execution of the judgment pending the appeal, and its application for a stay was approved by the court and remains stayed until the Company filed its dismissal of the appeal on December 31, 2020 pursuant to a Consent Decree, noted below.

During the pendency of the Sixth Circuit stay, the Company negotiated a settlement of the Kalamazoo River matter with the USEPA and other government agencies having oversight over the river. On December 5, 2019, the Company entered into a Consent Decree, filed with the District Court on December 11, 2019, and on December 2, 2020, the District Court approved the Consent Decree, which has now resolved all litigation associated with the river clean-up, including the Sixth Circuit appeal. The Consent Decree requires the Company to pay GP its 40% share of past costs, to pay the USEPA and state agencies their past and future administrative costs, and to dismiss its Sixth Circuit appeal. The Consent Decree further requires the Company to take responsibility for the remediation of a portion, but not all, of the Kalamazoo River. The Consent Decree further provides the Company protection from other PRPs, including GP, seeking contribution for their costs associated with the clean-up anywhere on the river, thereby resolving the allocation of future costs left unresolved by the June 19, 2019 judgment.

NCR expects to have claims against BAT and API under the Funding Agreement discussed above for the Kalamazoo River remediation expenses. API filed for bankruptcy protection in October 2017, and thus payment of its potential share under the Funding Agreement for so-called "future sites," which would include the Kalamazoo River site, may be at risk, but as liability under the Cost Sharing Agreement and the Funding Agreement is joint and several, the bankruptcy is not anticipated to affect the Company's ability to seek that amount from BAT. The Company will also have indemnity or reimbursement claims against AT&T and Nokia under the arrangement discussed above in connection with the Fox River matter after expenses have met a contractual threshold set out in the 1996 agreement referenced above in the Fox River discussion.

As of December 31, 2020, the reserve for Kalamazoo was \$164 million as compared to \$81 million as of December 31, 2019; that figure is reported on a basis that is net of expected contributions from the Company's co-obligors and indemnitors, subject to when the applicable threshold is reached. While the Company believes its co-obligors' and indemnitors' obligations are as previously reported, the increase in the reserve reflects changes in positions taken by some of those co-obligors and indemnitors with respect to the Kalamazoo River. The contributions from its co-obligors and indemnitors are expected to range from \$70 million to \$140 million and the Company will continue to pursue such contribution.

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**Notes to Consolidated Financial Statements-(Continued)**

As many aspects of the costs of remediation will not be determined for several years (and thus the high end of a range of possible costs for many areas of the site cannot be quantified at this time), the Company has made what it considers to be reasonable estimates of the low end of a range for such costs where remedies are identified, and/or of the costs of investigations and studies for areas of the river where remedies have not yet been determined, and the reserve is informed by those estimates. The extent of NCR's potential liability remains subject to many uncertainties, notwithstanding the settlement of this matter and related Consent Decree noted above, particularly inasmuch as remedy decisions and cost estimates will not be generated until times in the future and as most of the work to be performed will take place through the 2030s. Under other assumptions or estimates for possible costs of remediation, which the Company does not at this point consider to be reasonably estimable or verifiable, it is possible that the reserve the Company has taken to discontinued operations reflected in this paragraph could more than approximately double the reflected reserve.

*Ebina* The Company is engaged in cooperative regulatory compliance activities with the government of Japan in connection with certain environmental contaminants generated in its past operations in that country. The Company has quantities of PCB and other wastes primarily from its former plant at Oiso, Japan, including capsulated undiluted solutions manufactured in the past, capacitors, light ballasts and PCB-affected soil from the Oiso plant that was excavated and placed in steel drums. These wastes are stored in a facility at Ebina, Japan in accordance with Japanese regulations governing such materials. Over the past several years Japan has enacted and amended legislation governing such wastes, and has set a current deadline for treating and disposing of (at government-constructed disposal facilities) the highest-concentration wastes by 2027. Lower-concentration wastes can be and have been disposed of via private contractors, and as of December 31, 2020, NCR had disposed of more than a third of its lower-concentration wastes.

The Company and its consultants have met and communicated regularly with the Japanese agency charged with administration of the law, and are working with that agency on a program to manage disposal of the high-concentration wastes, including tests of technologies to make the disposal more efficient. Pending final government approvals, the Company expects to begin disposal of high-concentration wastes in early 2021, with final deadlines for various of the government-constructed disposal sites currently set for 2022, 2023 and later. Low-concentration wastes are required to be contracted for disposal by 2027, a timetable that the Company expects to meet. In September 2019, the Company's environmental consultants, following a series of communications and meetings with the Japanese agency, at the Company's request prepared an estimate of remaining disposal costs over the coming several years. While the estimate is subject to a range of assumptions and uncertainties, including prospects of cost reduction in coordination with the agency as certain field testing to separate high-concentration and low-concentration waste progresses over the coming years, the Company has adjusted its existing reserve for the matter to take into account this cost estimate, and that reserve as of December 31, 2020 and 2019 is \$20 million and \$19 million, respectively. The Japan environmental waste issue is treated as a compliance matter and not as litigation or enforcement, and the Company has received no threats of litigation or enforcement.

*Environmental-Related Insurance Recoveries* In connection with the Fox River and other environmental sites, through December 31, 2020, NCR has received a combined gross total of approximately \$202 million in settlements reached with various of its insurance carriers. Portions of many of these settlements agreed in the 2010 through 2013 timeframe are payable to a law firm that litigated the claims on the Company's behalf. Some of the settlements cover not only the Fox River but also other environmental sites; some are limited to either the Fox River or the Kalamazoo River site. Some of the settlements are directed to defense costs and some are directed to indemnity; some settlements cover both defense costs and indemnity. The Company does not anticipate that further material insurance recoveries specific to Kalamazoo River remediation costs will be available to it, owing to considerations under applicable Michigan law. Claims with respect to Kalamazoo River defense costs have now been settled, with the amounts of those settlements included in the sum reported above.

*Environmental Remediation Estimates* It is difficult to estimate the future financial impact of environmental laws, including potential liabilities. NCR records environmental provisions when it is probable that a liability has been incurred and the amount or range of the liability is reasonably estimable; in accordance with accounting guidance, where liabilities are not expected to be quantifiable or estimable for a period of years, the estimated costs of investigating those liabilities are recorded as a component of the reserve for that particular site. Provisions for estimated losses from environmental restoration and remediation are, depending on the site, based generally on internal and third-party environmental studies, estimates as to the number and participation level of other PRPs, the extent of contamination, estimated amounts for attorney and other fees, and the nature of required clean-up and restoration actions. Reserves are adjusted as further information develops or circumstances change. Management expects that the amounts reserved from time to time will be paid out over the period of investigation, negotiation, remediation and restoration for the applicable sites. The amounts provided for environmental matters in NCR's Consolidated Financial Statements are the estimated gross undiscounted amounts of such liabilities, without deductions for indemnity insurance, third-party indemnity claims or recoveries from other PRPs, except as qualified in the following sentences. In those cases where insurance carriers or third-party indemnitors have agreed to pay any amounts and management believes that

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

collectability of such amounts is probable, the amounts are recorded in the Consolidated Financial Statements. For the Fox River and Kalamazoo River sites, as described above, assets relating to the AT&T and Nokia indemnities and to the BAT obligations are recorded as payment is supported by contractual agreements, public filings and/or payment history.

**Guarantees and Product Warranties** In the ordinary course of business, NCR may issue performance guarantees on behalf of its subsidiaries to certain of its customers and other parties. Some of those guarantees may be backed by standby letters of credit, surety bonds, or similar instruments. In general, under the guarantees, NCR would be obligated to perform, or cause performance, over the term of the underlying contract in the event of an unexcused, uncured breach by its subsidiary, or some other specified triggering event, in each case as defined by the applicable guarantee. NCR believes the likelihood of having to perform under any such guarantee is remote. As of December 31, 2020 and 2019, NCR had no material obligations related to such guarantees, and therefore its Consolidated Financial Statements do not have any associated liability balance.

NCR provides its customers a standard manufacturer's warranty and records, at the time of the sale, a corresponding estimated liability for potential warranty costs. Estimated future obligations due to warranty claims are based upon historical factors, such as labor rates, average repair time, travel time, number of service calls per machine and cost of replacement parts. When a sale is consummated, the total customer revenue is recognized, provided that all revenue recognition criteria are otherwise satisfied, and the associated warranty liability is recorded using pre-established warranty percentages for the respective product classes.

From time to time, product design or quality corrections are accomplished through modification programs. When identified, associated costs of labor and parts for such programs are estimated and accrued as part of the warranty reserve.

The Company recorded the activity related to the warranty reserve for the years ended December 31 as follows:

In millions	2020	2019	2018
<b>Warranty reserve liability</b>			
Beginning balance as of January 1	\$ 21	\$ 26	\$ 26
Accruals for warranties issued	30	37	42
Settlements (in cash or in kind)	(33)	(42)	(42)
Ending balance as of December 31	<u>\$ 18</u>	<u>\$ 21</u>	<u>\$ 26</u>

In addition, NCR provides its customers with certain indemnification rights. In general, NCR agrees to indemnify the customer if a third party asserts patent or other infringement on the part of its customers for its use of the Company's products subject to certain conditions that are generally standard within the Company's industries. On limited occasions the Company will undertake additional indemnification obligations for business reasons. From time to time, NCR also enters into agreements in connection with its acquisition and divestiture activities that include indemnification obligations by the Company. The fair value of these indemnification obligations is not readily determinable due to the conditional nature of the Company's potential obligations and the specific facts and circumstances involved with each particular agreement. The Company has not recorded a liability in connection with these indemnifications, and no current indemnification instance is material to the Company's financial position. Historically, payments made by the Company under these types of agreements have not had a material effect on the Company's consolidated financial condition, results of operations or cash flows.

**Purchase Commitments** The Company has purchase commitments for materials, supplies, services, and property, plant and equipment as part of the normal course of business. This includes a long-term service agreement with Accenture, under which many of NCR's key transaction processing activities and functions are performed.

## 10. LEASING

The following table presents our lease balances as of December 31:

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**Notes to Consolidated Financial Statements--(Continued)**

In millions	Location in the Consolidated Balance Sheet	December 31, 2020	December 31, 2019
<b>Assets</b>			
Operating lease assets	Operating lease assets	\$ 344	\$ 391
Finance lease assets	Property, plant and equipment, net	55	38
Accumulated Amortization of Finance lease assets	Property, plant and equipment, net	(18)	(5)
<b>Total leased assets</b>		<b>\$ 381</b>	<b>\$ 424</b>
<b>Liabilities</b>			
<b>Current</b>			
Operating lease liabilities	Other current liabilities	\$ 85	\$ 91
Finance lease liabilities	Other current liabilities	15	10
<b>Noncurrent</b>			
Operating lease liabilities	Operating lease liabilities	325	369
Finance lease liabilities	Other liabilities	23	25
<b>Total lease liabilities</b>		<b>\$ 448</b>	<b>\$ 495</b>

The following table presents our lease costs for operating and finance leases:

In millions	For the year ended December 31, 2020	For the year ended December 31, 2019
Operating lease cost	\$ 125	\$ 137
Finance lease cost		
Amortization of leased assets	13	5
Interest on lease liabilities	1	1
Short-Term lease cost	5	5
Variable lease cost	27	30
<b>Total lease cost</b>	<b>\$ 171</b>	<b>\$ 178</b>

Total rental expense for operating leases was \$148 million in 2018.

The following table presents the supplemental cash flow information:

In millions	For the year ended December 31, 2020	For the year ended December 31, 2019
<b>Cash paid for amounts included in the measurement of lease liabilities:</b>		
Operating cash flows from operating leases	\$ 128	\$ 141
Operating cash flows from finance leases	\$ 2	\$ 1
Financing cash flows from finance leases	\$ 13	\$ 4
<b>Lease Assets Obtained in Exchange for Lease Obligations</b>		
Operating Leases	\$ 31	\$ 45
Finance Leases	\$ 15	\$ 33

The following table reconciles the undiscounted cash flows for each of the first five years and total of the remaining years to the finance lease liabilities and operating lease liabilities recorded on the Consolidated Balance Sheet as of December 31, 2020:

**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

In millions	Operating Leases		Finance Leases	
2021	\$	108	\$	16
2022		77		15
2023		51		8
2024		42		1
2025		35		—
Thereafter		240		—
Total lease payments		553		40
Less: Amount representing interest		(143)		(2)
Present value of lease liabilities	\$	410	\$	38

As of December 31, 2020, we have additional operating leases of \$74 million, primarily for a real estate lease in Europe, that have not yet commenced. This operating lease is expected to commence in 2021 with a lease term of 10 years.

The following table presents the weighted average remaining lease term and interest rates:

	December 31, 2020	December 31, 2019
Weighted average lease term:		
Operating leases	8.7 years	8.9 years
Finance leases	2.7 years	3.4 years
Weighted average interest rates:		
Operating leases	6.45 %	6.42 %
Finance leases	4.59 %	3.72 %

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**Notes to Consolidated Financial Statements—(Continued)**

## 11. SERIES A PREFERRED STOCK

On December 4, 2015, NCR issued 820,000 shares of Series A Convertible Preferred Stock to certain entities affiliated with the Blackstone Group L.P. (collectively, Blackstone) for an aggregate purchase price of \$820 million, or \$1,000 per share, pursuant to an Investment Agreement between the Company and Blackstone, dated November 11, 2015. In connection with the issuance of the Series A Convertible Preferred Stock, the Company incurred direct and incremental expenses of \$26 million, including financial advisory fees, closing costs, legal expenses and other offering-related expenses. These direct and incremental expenses originally reduced the Series A Convertible Preferred Stock, and will be accreted through retained earnings as a deemed dividend from the date of issuance through the first possible known redemption date, March 16, 2024. During the years ended December 31, 2020, 2019 and 2018, the Company paid dividends-in-kind of \$10 million, \$43 million, and \$46 million, respectively, associated with the Series A Convertible Preferred Stock. There were cash dividends of \$9 million declared during the year ended December 31, 2020 and there were no cash dividends during the years ended December 31, 2019 and 2018.

In 2017, in connection with the early release of the lock-up included in the Investment Agreement, Blackstone offered for sale 342,000 shares of Series A Convertible Preferred Stock in an underwritten public offering. In addition, Blackstone converted 90,000 shares of Series A Convertible Preferred Stock into shares of our common stock and we repurchased those shares of common stock for \$48.47 per share. The underwritten offering and the stock repurchase were consummated on March 17, 2017.

On September 18, 2019, NCR entered into an agreement to repurchase and convert the outstanding 512,221 shares of Series A Convertible Preferred Stock owned by Blackstone. NCR repurchased 237,673 shares of Series A Convertible Preferred Stock for total cash consideration of \$302 million. The remaining shares of Blackstone's Series A Convertible Preferred Stock, including accrued dividends, were converted to approximately 9.16 million shares of common stock at a conversion price of \$30.00 per share.

For the repurchase of Series A Convertible Preferred Stock, the excess of the fair value of consideration transferred over the carrying value was approximately \$67 million, and has been included as a deemed dividend in adjusting the income from common stockholders in calculating earnings per share. In this analysis, we determined the fair value of the consideration transferred was not in excess of the fair value of the redeemed Series A Convertible Preferred Stock. As a result, there was no inducement provided to Blackstone for the conversion of the remaining preferred shares into common stock.

On October 6, 2020, NCR entered into a definitive agreement to repurchase 67,000 shares of Series A Convertible Preferred Stock from two affiliated shareholders for a total cash consideration of \$72 million. The transaction closed on October 7, 2020. On October 12, 2020, NCR entered into a definitive agreement to repurchase 65,365 shares of Series A Convertible Preferred Stock owned by two affiliated shareholders for a total cash consideration of \$72 million. The transaction closed on October 13, 2020. The excess of the fair value of consideration transferred over the carrying value was approximately \$12 million, and has been included as a deemed dividend in adjusting the income from common stockholders in calculating earnings per share.

**Dividend Rights** The Series A Convertible Preferred Stock ranks senior to the shares of the Company's common stock, with respect to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company. The Series A Convertible Preferred Stock has a liquidation preference of \$1,000 per share. Holders of Series A Convertible Preferred Stock are entitled to a cumulative dividend at the rate of 5.5% per annum, which was payable quarterly in arrears and payable in-kind for the first sixteen dividend payments, after which, beginning in the first quarter of 2020, dividends are payable in cash or in-kind at the option of the Company. If the Company does not declare and pay a dividend, the dividend rate will increase to 8.0% per annum until all accrued but unpaid dividends have been paid in full.

**Conversion Features** The Series A Convertible Preferred Stock is convertible at the option of the holders at any time into shares of common stock at a conversion price of \$30.00 per share and a conversion rate of 33.333 shares of common stock per share of Series A Convertible Preferred Stock. As of December 31, 2020 and 2019, the maximum number of common shares that could be required to be issued upon conversion of the outstanding shares of Series A Convertible Preferred Stock was 9.2 million and 13.3 million shares, respectively. The conversion rate is subject to the following customary anti-dilution and other adjustments:

- the issuance of common stock as a dividend or the subdivision, combination, or reclassification of common stock into a greater or lesser number of shares of common stock;

**NCR Corporation**  
**Notes to Consolidated Financial Statements-(Continued)**

- the dividend, distribution or other issuance of rights, options or warrants to holders of Common Stock entitling them to subscribe for or purchase shares of common stock at a price per share that is less than the volume-weighted average price per share of common stock;
- the completion of a tender offer or exchange offer of shares of common stock at a premium to the volume-weighted average price per share of common stock and certain other above-market purchases of common stock;
- the issuance of a dividend or similar distribution in-kind, which can include shares of any class of capital stock, evidences of the Company's indebtedness, assets or other property or securities, to holders of common stock;
- a transaction in which a subsidiary of the Company ceases to be a subsidiary of the Company as a result of the distribution of the equity interests of the subsidiary to the holders of the Company's common stock; and
- the payment of a cash dividend to the holders of common stock.

At any time after December 4, 2018, all outstanding shares of Series A Convertible Preferred Stock are convertible at the option of the Company if the volume-weighted average price of the common stock exceeds \$54.00 for at least 30 trading days in any period of 45 consecutive trading days. The \$54.00 may be adjusted pursuant to the anti-dilution provisions above.

The Series A Convertible Preferred Stock, and the associated dividends for the first sixteen payments, did not generate a beneficial conversion feature (BCF) upon issuance as the fair value of the Company's common stock was greater than the conversion price. The Company will determine and, if required, measure a BCF based on the fair value of our stock price on the date dividends are declared subsequent to the sixteenth dividend. If a BCF is recognized, a reduction to retained earnings and the Series A Convertible Preferred Stock will be recorded, and then subsequently accreted through the first redemption date.

Additionally, the Company determined that the nature of the Series A Convertible Preferred Stock was more akin to an equity instrument and that the economic characteristics and risks of the embedded conversion options were clearly and closely related to the Series A Convertible Preferred Stock. As such, the conversion options were not required to be bifurcated from the host under ASC 815, *Derivatives and Hedging*.

**Redemption Rights** On any date during the three months commencing on and immediately following March 16, 2024 and the three months commencing on and immediately following every third anniversary of March 16, 2024, holders of Series A Convertible Preferred Stock have the right to require the Company to repurchase all or any portion of the Series A Convertible Preferred Stock at 100% of the liquidation preference thereof plus all accrued but unpaid dividends. Upon certain change of control events involving the Company, holders of Series A Convertible Preferred Stock can require the Company to repurchase, subject to certain exceptions, all or any portion of the Series A Convertible Preferred Stock at the greater of (1) an amount in cash equal to 100% of the liquidation preference thereof plus all accrued but unpaid dividends and (2) the consideration the holders would have received if they had converted their shares of Series A Convertible Preferred Stock into common stock immediately prior to the change of control event.

The Company has the right, upon certain change of control events involving the Company, to redeem the Series A Convertible Preferred Stock at the greater of (1) an amount in cash equal to the sum of the liquidation preference of the Series A Convertible Preferred Stock, all accrued but unpaid dividends and the present value, discounted at a rate of 10%, of any remaining scheduled dividends through the fifth anniversary of the first dividend payment date, assuming the Company chose to pay such dividends in cash (the "make-whole provision") and (2) the consideration the holders would have received if they had converted their shares of Series A Convertible Preferred Stock into common stock immediately prior to the change of control event.

Since the redemption of the Series A Convertible Preferred Stock is contingently or optionally redeemable and therefore not certain to occur, the Series A Convertible Preferred Stock is not required to be classified as a liability under ASC 480, *Distinguishing Liabilities from Equity*. As the Series A Convertible Preferred Stock is redeemable in certain circumstances at the option of the holder and is redeemable in certain circumstances upon the occurrence of an event that is not solely within our control, we have classified the Series A Convertible Preferred Stock in mezzanine equity in the Consolidated Balance Sheets.

As noted above, the Company determined that the nature of the Series A Convertible Preferred Stock was more akin to an equity instrument. However, the Company determined that the economic characteristics and risks of the embedded put options, call option and make-whole provision were not clearly and closely related to the Series A Convertible Preferred Stock. Therefore, the Company assessed the put and call options further, and determined they did not meet the definition of a derivative under ASC 815, *Derivatives and Hedging*. Under the same analysis, the Company determined the make-whole provision did meet the definition of a derivative, but that the value of the derivative was minimal due to the expectations surrounding the scenarios under which the call option and make-whole provision would be exercised.



**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

**Voting Rights** Holders of Series A Convertible Preferred Stock are entitled to vote with the holders of the common stock on an as-converted basis. Holders of Series A Convertible Preferred Stock are entitled to a separate class vote with respect to, amendments to the Company's organizational documents that have an adverse effect on the Series A Convertible Preferred Stock and issuances by the Company of securities that are senior to, or equal in priority with, the Series A Convertible Preferred Stock.

## **12. DERIVATIVES AND HEDGING INSTRUMENTS**

NCR is exposed to risks associated with changes in foreign currency exchange rates and interest rates. NCR utilizes a variety of measures to monitor and manage these risks, including the use of derivative financial instruments. NCR has exposure to approximately 50 functional currencies. Since a substantial portion of our operations and revenue occur outside the U.S., and in currencies other than the U.S. Dollar, our results can be significantly impacted, both positively and negatively, by changes in foreign currency exchange rates.

**Foreign Currency Exchange Risk** The accounting guidance for derivatives and hedging requires companies to recognize all derivative instruments as either assets or liabilities at fair value in the Consolidated Balance Sheets. The Company designates foreign exchange contracts as cash flow hedges of forecasted transactions when they are determined to be highly effective at inception.

Our risk management strategy includes hedging, on behalf of certain subsidiaries, a portion of our forecasted, non-functional currency denominated cash flows for a period of up to 15 months. As a result, some of the impact of currency fluctuations on non-functional currency denominated transactions (and hence on subsidiary operating income, as stated in the functional currency), is mitigated in the near term. The amount we hedge and the duration of hedge contracts may vary significantly. In the longer term (greater than 15 months), the subsidiaries are still subject to the effect of translating the functional currency results to U.S. Dollars. To manage our exposures and mitigate the impact of currency fluctuations on the operations of our foreign subsidiaries, we hedge our main transactional exposures through the use of foreign exchange forward and option contracts. This is primarily done through the hedging of foreign currency denominated inter-company inventory purchases by NCR's marketing units and the foreign currency denominated inputs to our manufacturing units. The related foreign exchange contracts are designated as highly effective cash flow hedges. The gains or losses on these hedges are deferred in accumulated other comprehensive income (AOCI) and reclassified to income when the underlying hedged transaction is recorded in earnings. As of December 31, 2020, the balance in AOCI related to foreign exchange derivative transactions was zero. The gains or losses from derivative contracts related to inventory purchases are recorded in cost of products when the inventory is sold to an unrelated third party.

We also utilize foreign exchange contracts to hedge our exposure of assets and liabilities denominated in non-functional currencies. We recognize the gains and losses on these types of hedges in earnings as exchange rates change. We do not enter into hedges for speculative purposes.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

The following tables provide information on the location and amounts of derivative fair values in the Consolidated Balance Sheets:

Fair Values of Derivative Instruments						
December 31, 2020						
In millions	Balance Sheet Location	Notional Amount	Fair Value	Balance Sheet Location	Notional Amount	Fair Value
<b>Derivatives designated as hedging instruments</b>						
Foreign exchange contracts	Other current assets	\$ —	\$ —	Other current liabilities	\$ —	\$ —
<b>Total derivatives designated as hedging instruments</b>			<b>\$ —</b>			
<b>Derivatives not designated as hedging instruments</b>						
Foreign exchange contracts	Other current assets	\$ 150	\$ —	Other current liabilities	\$ 425	\$ 1
<b>Total derivatives not designated as hedging instruments</b>			<b>\$ —</b>			
<b>Total derivatives</b>			<b>\$ —</b>			

Fair Values of Derivative Instruments						
December 31, 2019						
In millions	Balance Sheet Location	Notional Amount	Fair Value	Balance Sheet Location	Notional Amount	Fair Value
<b>Derivatives designated as hedging instruments</b>						
Foreign exchange contracts	Other current assets	\$ 55	\$ 1	Other current liabilities	\$ —	\$ —
<b>Total derivatives designated as hedging instruments</b>			<b>\$ 1</b>			
<b>Derivatives not designated as hedging instruments</b>						
Foreign exchange contracts	Other current assets	\$ 71	\$ 1	Other current liabilities	\$ 264	\$ 1
<b>Total derivatives not designated as hedging instruments</b>			<b>\$ 1</b>			
<b>Total derivatives</b>			<b>\$ 2</b>			

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

The effects of derivative instruments on the Consolidated Statement of Operations for the years ended December 31 were as follows:

In millions	Amount of Gain (Loss) Recognized in Other Comprehensive Income (OCI) on Derivative (Effective Portion)			Location of (Gain) Loss Reclassified from AOCI into the Consolidated Statement of Operations (Effective Portion)	Amount of (Gain) Loss Reclassified from AOCI into the Consolidated Statement of Operations (Effective Portion)		
	For the year ended December 31, 2020	For the year ended December 31, 2019	For the year ended December 31, 2018		For the year ended December 31, 2020	For the year ended December 31, 2019	For the year ended December 31, 2018
Derivatives in Cash Flow Hedging Relationships							
Foreign exchange contracts	\$ (8)	\$ 6	\$ 11	Cost of products	\$ 7	\$ (8)	\$ (7)

In millions	Derivatives not Designated as Hedging Instruments	Location of Gain (Loss) Recognized in the Consolidated Statement of Operations	Amount of Gain (Loss) Recognized in the Consolidated Statement of Operations		
			For the year ended December 31, 2020	For the year ended December 31, 2019	For the year ended December 31, 2018
	Foreign exchange contracts	Other income (expense), net	\$ 22	\$ (8)	\$ (9)

Refer to Note 13, "Fair Value of Assets and Liabilities" for further information on derivative assets and liabilities recorded at fair value on a recurring basis.

**Concentration of Credit Risk**

NCR is potentially subject to concentrations of credit risk on accounts receivable and financial instruments such as hedging instruments and cash and cash equivalents. Credit risk includes the risk of nonperformance by counterparties. The maximum potential loss may exceed the amount recognized on the Consolidated Balance Sheets. Exposure to credit risk is managed through credit approvals, credit limits, selecting major international financial institutions as counterparties to hedging transactions and monitoring procedures. NCR's business often involves large transactions with customers, and if one or more of those customers were to default on its obligations under applicable contractual arrangements, the Company could be exposed to potentially significant losses. However, management believes that the reserves for potential losses are adequate. As of December 31, 2020 and 2019, NCR did not have any major concentration of credit risk related to financial instruments.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

### 13. FAIR VALUE OF ASSETS AND LIABILITIES

#### *Assets and Liabilities Measured at Fair Value on a Recurring Basis*

Assets and liabilities recorded at fair value on a recurring basis as of December 31, 2020 and 2019 are set forth as follows:

In millions	December 31, 2020				December 31, 2019			
	Fair Value Measurements Using				Fair Value Measurements Using			
	December 31, 2020	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	December 31, 2019	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<b>Assets:</b>								
Deposits held in money market mutual funds <sup>(1)</sup>	\$ 22	\$ 22	\$ —	\$ —	\$ 15	\$ 15	\$ —	\$ —
Foreign Investments <sup>(2)</sup>	2	—	2	—	—	—	—	—
Foreign exchange contracts <sup>(2)</sup>	—	—	—	—	2	—	2	—
<b>Total</b>	<b>\$ 24</b>	<b>\$ 22</b>	<b>\$ 2</b>	<b>\$ —</b>	<b>\$ 17</b>	<b>\$ 15</b>	<b>\$ 2</b>	<b>\$ —</b>
<b>Liabilities:</b>								
Foreign exchange contracts <sup>(3)</sup>	1	—	1	—	1	—	1	—
<b>Total</b>	<b>\$ 1</b>	<b>\$ —</b>	<b>\$ 1</b>	<b>\$ —</b>	<b>\$ 1</b>	<b>\$ —</b>	<b>\$ 1</b>	<b>\$ —</b>

<sup>(1)</sup> Included in Cash and cash equivalents in the Consolidated Balance Sheet.

<sup>(2)</sup> Included in Other current assets in the Consolidated Balance Sheet.

<sup>(3)</sup> Included in Other current liabilities in the Consolidated Balance Sheet.

*Deposits Held in Money Market Mutual Funds* A portion of the Company's excess cash is held in money market mutual funds which generate interest income based on prevailing market rates. Money market mutual fund holdings are measured at fair value using quoted market prices and are classified within Level 1 of the valuation hierarchy.

*Foreign Investments* As a result of our acquisition of Origami, as noted within Note 3, "Business Combinations and Divestitures", we acquired investments held in Brazil. The investments include an investment fund similar to a mutual fund as well as certificates of deposit. The investments are valued using observable, either directly or indirectly, inputs for substantially the full term of the assets and are classified within Level 2 of the valuation hierarchy.

*Foreign Exchange Contracts* As a result of our global operating activities, we are exposed to risks from changes in foreign currency exchange rates, which may adversely affect our financial condition. To manage our exposures and mitigate the impact of currency fluctuations on our financial results, we hedge our primary transactional exposures through the use of foreign exchange forward and option contracts. The foreign exchange contracts are valued using the market approach based on observable market transactions of forward rates and are classified within Level 2 of the valuation hierarchy.

#### *Assets Measured at Fair Value on a Non-recurring Basis*

Certain assets have been measured at fair value on a nonrecurring basis using significant unobservable inputs (Level 3). NCR measures certain assets, including intangible assets and cost and equity method investments, at fair value on a non-recurring basis. These assets are recognized at fair value when initially valued and when deemed to be impaired. Additionally, NCR reviews the carrying values of investments when events and circumstances warrant and considers all available evidence in evaluating when declines in fair value are other-than-temporary declines. NCR carries equity investments in privately-held companies at cost or at fair value when NCR recognizes an other-than-temporary impairment charge. In the year ended December 31, 2020 we recorded an other-than-temporary impairment charge of \$7 million in other income (expense), net within the Consolidated Statement of Operations related to the write-off of an equity method investment. No material impairment charges or non-recurring fair value adjustments were recorded during the year ended December 31, 2019. In the year ended December 31, 2018, we recorded \$227 million, which included \$146 million impairment of goodwill under our

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

previous segment structure, which was assigned to the Hardware reporting unit and \$37 million impairment charge related to long-lived assets held and used in our Hardware operations.

**14. ACCUMULATED OTHER COMPREHENSIVE INCOME**

**Changes in Accumulated Other Comprehensive Income (AOCI) by Component**

The changes in AOCI for the years ended December 31 are as follows:

In millions	Currency Translation Adjustments	Changes in Employee Benefit Plans	Changes in Fair Value of Effective Cash Flow Hedges	Total
Balance at December 31, 2017	\$ (183)	\$ (15)	\$ (1)	\$ (199)
Impact of adoption of new accounting standard	—	1	—	1
Other comprehensive (loss) income before reclassifications	(51)	6	11	(34)
Amounts reclassified from AOCI	—	(6)	(8)	(14)
Net current period other comprehensive (loss) income	(51)	—	3	(48)
Balance at December 31, 2018	\$ (234)	\$ (14)	\$ 2	\$ (246)
Other comprehensive (loss) income before reclassifications	(26)	10	5	(11)
Amounts reclassified from AOCI	—	(6)	(6)	(12)
Net current period other comprehensive (loss) income	(26)	4	(1)	(23)
Balance at December 31, 2019	\$ (260)	\$ (10)	\$ 1	\$ (269)
Other comprehensive (loss) income before reclassifications	15	(11)	(7)	(3)
Amounts reclassified from AOCI	—	(5)	6	1
Net current period other comprehensive (loss) income	15	(16)	(1)	(2)
Balance at December 31, 2020	\$ (245)	\$ (26)	\$ —	\$ (271)

**Reclassifications Out of AOCI**

The reclassifications out of AOCI for the years ended December 31 are as follows:

In millions	For the year ended December 31, 2020			Total
	Employee Benefit Plans		Effective Cash Flow Hedges	
	Actuarial Losses Recognized	Amortization of Prior Service Benefit		
Affected line in Consolidated Statement of Operations:				
Cost of products	\$ —	\$ —	\$ 7	\$ 7
Cost of services	(2)	(2)	—	(4)
Selling, general and administrative expenses	(1)	(2)	—	(3)
Research and development expenses	—	—	—	—
Total before tax	\$ (3)	\$ (4)	\$ 7	\$ —
Tax expense				1
Total reclassifications, net of tax				\$ 1

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

For the year ended December 31, 2019				
In millions	Employee Benefit Plans			Total
	Actuarial Losses Recognized	Amortization of Prior Service Benefit	Effective Cash Flow Hedges	
Affected line in Consolidated Statement of Operations:				
Cost of products	\$ —	\$ —	\$ (8)	\$ (8)
Cost of services	(2)	(3)	—	(5)
Selling, general and administrative expenses	(1)	(3)	—	(4)
Research and development expenses	—	—	—	—
Total before tax	<u>\$ (3)</u>	<u>\$ (6)</u>	<u>\$ (8)</u>	<u>\$ (17)</u>
Tax expense				5
Total reclassifications, net of tax				<u>\$ (12)</u>

For the year ended December 31, 2018				
In millions	Employee Benefit Plans			Total
	Actuarial Losses Recognized	Amortization of Prior Service Benefit	Effective Cash Flow Hedges	
Affected line in Consolidated Statement of Operations:				
Cost of products	\$ —	\$ —	\$ (7)	\$ (7)
Cost of services	—	(5)	—	(5)
Selling, general and administrative expenses	—	(3)	—	(3)
Research and development expenses	—	(1)	—	(1)
Total before tax	<u>\$ —</u>	<u>\$ (9)</u>	<u>\$ (7)</u>	<u>\$ (16)</u>
Tax expense				2
Total reclassifications, net of tax				<u>\$ (14)</u>

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

### 15. REVISIONS OF PREVIOUSLY ISSUED FINANCIAL STATEMENTS

During 2020, the Company determined there were errors in its previously issued Consolidated Statements of Cash Flows related to the business activities that commenced upon the acquisition of JetPay Corporation (JetPay) in December 2018. As a result of these errors, the Company's cash, cash equivalents and restricted cash within the Consolidated Statements of Cash Flows for the years ended December 31, 2019 and 2018 and within the Condensed Consolidated Statements of Cash Flows for the interim periods in fiscal 2019 and for the three months ended March 31, 2020, were understated. This also resulted in misclassifications of activities between net cash from operations, investing, and financing activities in each of the periods noted above.

More specifically, the Company determined: (i) the funds held for clients represent cash balances that, based upon the Company's intent, are restricted solely for the purposes of satisfying the obligations to remit funds relating to the Company's payroll and payroll tax filing services, which are classified as client fund obligations; and (ii) there are restricted cash balances included within settlement processing assets that are not yet due to the merchants. Such funds are held in a fiduciary duty, and are not available for the Company to use to fund its cash requirements. As a result, (i) the business acquisition purchase price upon the acquisition of JetPay should have been reflected net of these cash balances and (ii) the restricted cash in all periods should have been presented within cash, cash equivalents and restricted cash within the Consolidated Statement of Cash Flows.

Additionally, the Company determined the presentation of the cash inflow or outflow from client fund obligations should be reflected within financing activities rather than within operating activities beginning in the third quarter of 2019 and through December 31, 2019. However, in analyzing the impact of the change to include funds held for clients within cash, cash equivalents and restricted cash, it was determined the cash inflow or outflow from client funds obligations was incorrect.

The Company assessed the materiality of these errors on the prior period financial statements in accordance with SEC Staff Bulletin No. 99, *Materiality*, codified in ASC Topic 250, *Accounting Changes and Error Corrections*. Based on this assessment, the Company determined the impact from these errors was not material to its previously filed annual or interim financial statements. The corrections had no impact on the Company's Consolidated Statements of Income, Consolidated Statements of Comprehensive Income or Consolidated Balance Sheets in previously issued annual or interim financial statements.

However, the Company has revised its previously issued financial statements to correct these errors within the Consolidated Statements of Cash Flows. The revision for the Consolidated Statement of Cash Flows for the year ended December 31, 2019 is reflected within the accompanying Consolidated Financial Statements.

The changes reflected in our Consolidated Statement of Cash Flows for the year ended December 31, 2019 are reflected in the tables below:

In millions	For the year ended December 31, 2019		
	As Reported	Adjustment	As Revised
Increase (decrease) in other assets and liabilities	\$ 2	\$ 6	\$ 8
<b>Net cash provided by (used in) operating activities</b>	<b>\$ 628</b>	<b>\$ 6</b>	<b>\$ 634</b>
Net increase (decrease) in client obligations	\$ (15)	\$ 15	\$ —
<b>Net cash provided by (used in) investing activities</b>	<b>\$ (527)</b>	<b>\$ 15</b>	<b>\$ (512)</b>
Net increase (decrease) in client obligations	\$ 15	\$ (30)	\$ (15)
<b>Net cash provided by (used in) financing activities</b>	<b>\$ (31)</b>	<b>\$ (30)</b>	<b>\$ (61)</b>
Increase (decrease) in Cash, cash equivalents and restricted cash	\$ 40	\$ (9)	\$ 31
Cash, cash equivalents and restricted cash at the beginning of the period	\$ 476	\$ 56	\$ 532
<b>Cash, cash equivalents and restricted cash at the end of the period</b>	<b>\$ 516</b>	<b>\$ 47</b>	<b>\$ 563</b>

Consistent with the revision to the Consolidated Statement of Cash Flows described above, the Company has revised the reconciliation of cash, cash equivalents and restricted cash included in the Consolidated Statement of Cash Flows for all periods that include a revision. The appropriate changes are reflected in our Consolidated Statement of Cash Flows for the year ended December 31, 2019, and the corrections, as reflected in the table below to include funds held for clients and cash included in settlement processing assets within cash, cash equivalents and restricted cash.

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

In millions	December 31, 2019
<b>Reconciliation of cash, cash equivalents and restricted cash as shown in the Consolidated Statements of Cash Flows</b>	
Cash and cash equivalents	\$ 509
Restricted cash included in other assets	7
Funds held for clients included in other current assets	32
Cash included in settlement processing assets included in other current assets	15
<b>Total cash, cash equivalents and restricted cash</b>	<b>\$ 563</b>

**16. SUPPLEMENTAL FINANCIAL INFORMATION**

The components of other income (expense), net are summarized as follows for the years ended December 31:

In millions	2020	2019	2018
<b>Other income (expense), net</b>			
Interest income	\$ 8	\$ 5	\$ 5
Foreign currency fluctuations and foreign exchange contracts	(14)	(23)	(26)
Employee benefit plans	(31)	(82)	45
Bank-related fees	(5)	(7)	(8)
Gain on equity liquidations	—	37	—
Impairment of equity investment	(7)	—	—
Bargain purchase gain on acquisition	7	—	—
Other, net	—	(3)	—
<b>Total other income (expense), net</b>	<b>\$ (42)</b>	<b>\$ (73)</b>	<b>\$ 16</b>

The components of accounts receivable are summarized as follows:

In millions	December 31, 2020	December 31, 2019
<b>Accounts receivable</b>		
Trade	\$ 1,120	\$ 1,482
Other	48	52
Accounts receivable, gross	1,168	1,534
Less: allowance for credit losses	(51)	(44)
<b>Total accounts receivable, net</b>	<b>\$ 1,117</b>	<b>\$ 1,490</b>

The components of inventory are summarized as follows:

In millions	December 31, 2020	December 31, 2019
<b>Inventories</b>		
Work in process and raw materials	\$ 133	\$ 204
Finished goods	135	184
Service parts	333	396
<b>Total inventories</b>	<b>\$ 601</b>	<b>\$ 784</b>



**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

The components of property, plant and equipment are summarized as follows:

In millions	December 31, 2020	December 31, 2019
<b>Property, plant and equipment</b>		
Land and improvements	\$ 2	\$ 5
Buildings and improvements	279	274
Machinery and other equipment	713	715
Finance lease assets	55	38
Property, plant and equipment, gross	1,049	1,032
Less: accumulated depreciation	(676)	(619)
<b>Total property, plant and equipment, net</b>	<b>\$ 373</b>	<b>\$ 413</b>

**17. QUARTERLY INFORMATION (UNAUDITED)**

In millions, except per share amounts	First	Second	Third	Fourth
<b>2020</b>				
Total revenue	\$ 1,503	\$ 1,484	\$ 1,589	\$ 1,631
Gross margin	\$ 397	\$ 372	\$ 427	\$ 328
Income from operations	\$ 77	\$ 89	\$ 118	\$ (63)
Income (loss) from continuing operations (attributable to NCR)	\$ 23	\$ 64	\$ 31	\$ (125)
Income (loss) from discontinued operations, net of tax	\$ —	\$ —	\$ —	\$ (72)
Net (loss) income attributable to NCR common stockholders	\$ 17	\$ 57	\$ 25	\$ (209)
Income (loss) per share attributable to NCR common stockholders:				
Income (loss) per common share from continuing operations				
Basic	\$ 0.13	\$ 0.45	\$ 0.19	\$ (1.06)
Diluted	\$ 0.13	\$ 0.44	\$ 0.19	\$ (1.06)
Net (loss) income per common share				
Basic	\$ 0.13	\$ 0.45	\$ 0.19	\$ (1.62)
Diluted	\$ 0.13	\$ 0.44	\$ 0.19	\$ (1.62)
<b>2019</b>				
Total revenue	\$ 1,536	\$ 1,710	\$ 1,783	\$ 1,886
Gross margin	\$ 411	\$ 471	\$ 507	\$ 532
Income (loss) from operations	\$ 100	\$ 157	\$ 172	\$ 182
Income (loss) from continuing operations (attributable to NCR)	\$ 37	\$ 88	\$ 105	\$ 384
Income (loss) from discontinued operations, net of tax	\$ —	\$ —	\$ (15)	\$ (35)
Net income (loss) attributable to NCR common stockholders	\$ 24	\$ 76	\$ 11	\$ 343
Income (loss) per share attributable to NCR common stockholders:				
Income (loss) per common share from continuing operations				
Basic	\$ 0.20	\$ 0.63	\$ 0.21	\$ 2.96
Diluted	\$ 0.20	\$ 0.58	\$ 0.21	\$ 2.67
Net income (loss) per common share				
Basic	\$ 0.20	\$ 0.63	\$ 0.09	\$ 2.69
Diluted	\$ 0.20	\$ 0.58	\$ 0.09	\$ 2.43

Operating income for the quarter ended December 31, 2020 was impacted by the following items:

**NCR Corporation**  
**Notes to Consolidated Financial Statements--(Continued)**

- *Actuarial losses related to the remeasurement of our pension plan assets and liabilities.* The actuarial losses included in pension expense recognized in the quarter ended December 31, 2020 decreased net loss attributable to NCR by \$29 million, basic earnings per share from continuing operations by \$0.22, and diluted earnings per share from continuing operations by \$0.22.
- *Environmental matters* - In the quarter ended December 31, 2020, the loss from discontinued operations was \$72 million, net of tax, primarily related to updates in estimates and assumptions for the Fox River and the Kalamazoo River environmental matters. The loss from discontinued operations decreased basic earnings per share by \$0.56, and diluted earnings per share by \$0.56.
- *Cost actions on transformation and strategic initiatives* In the quarter ended December 31, 2020, the Company recorded charges related to the cost actions on transformation and strategic initiatives which included (i) inventory related charges to write-down inventory to the lower of cost or net realizable value; (ii) the write-off of internal and external use software capitalization projects that are no longer considered strategic and as a result, the projects have been abandoned; (iii) accruals for settlements of certain legacy matters and (iv) severance amounts that were determined to be probable and reasonably estimable in accordance with ASC 712 *Employers' Accounting for Postemployment Benefits*. The charges increased net loss attributable to NCR by \$165 million, basic earnings per share from continuing operations by \$1.28, and diluted earnings per share from continuing operations by \$1.28.

Operating income for the quarter ended December 31, 2019 was impacted by actuarial losses related to the remeasurement of our pension plan assets and liabilities. The actuarial losses included in pension expense recognized in the quarter ended December 31, 2019 decreased net income attributable to NCR by \$66 million, basic earnings per share from continuing operations by \$0.52, and diluted earnings per share from continuing operations by \$0.46.

Net income per share in each quarter is computed using the weighted-average number of shares outstanding during that quarter while net income per share for the full year is computed using the weighted-average number of shares outstanding during the year. Thus, the sum of the four quarters' net income per share will not necessarily equal the full-year net income per share.

**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

## **Item 9A. CONTROLS AND PROCEDURES**

### **Evaluation of Disclosure Controls and Procedures**

NCR has established disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934 (the Exchange Act)) to ensure that information required to be disclosed by NCR in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by NCR in the reports that it files or submits under the Exchange Act is accumulated and communicated to NCR's management, including its Chief Executive and Chief Financial Officers, as appropriate to allow timely decisions regarding required disclosure. Based on their evaluation as of the end of the period covered by this Report, conducted under their supervision and with the participation of management, the Company's Chief Executive and Chief Financial Officers have concluded that NCR's disclosure controls and procedures are effective to meet such objectives and that NCR's disclosure controls and procedures adequately alert them on a timely basis to material information relating to the Company (including its consolidated subsidiaries) required to be included in NCR's Exchange Act filings.

### **Changes in Internal Control over Financial Reporting**

There have been no changes in our internal control over financial reporting that occurred during the last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### **Management's Report on Internal Control over Financial Reporting**

Management is responsible for establishing and maintaining effective internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations due to, for example, the potential for human error or circumvention of controls, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The Company's management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2020. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in the 2013 Internal Control-Integrated Framework. Based on our assessment, we determined that, as of December 31, 2020, the Company's internal control over financial reporting was effective based on those criteria.

PricewaterhouseCoopers LLP, our independent registered public accounting firm, has audited the effectiveness of the Company's internal control over financial reporting as of December 31, 2020 as stated in their report which appears in Item 8 of this Report.

## **Item 9B. OTHER INFORMATION**

None.

## PART III

### **Item 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

Except as set forth in the following paragraphs of this Item 10, the information required by this Item 10 will be set forth under the headings “Election of Directors,” “Delinquent Section 16(a) Reports” (if applicable) and “Committees of the Board” in the Definitive Proxy Statement for our 2021 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our fiscal 2020 year, and is incorporated herein by reference. The information required by this Item 10 regarding our executive officers is set forth under the heading “Executive Officers of the Registrant” in Part I of this Form 10-K and is incorporated herein by reference.

We have not materially changed the procedures by which stockholders may recommend nominees to the Company’s Board of Directors.

We have a Code of Conduct that sets the standard for ethics and compliance for all of our directors and employees, including our chief executive officer, our chief financial officer and our chief accounting officer. Our Code of Conduct is available on the Corporate Governance page at our website at <http://www.ncr.com/company/corporate-governance/code-of-conduct> under the heading “Code of Conduct.” We intend to disclose any amendments to or waivers of the Code of Conduct with respect to any director as well as our principal executive officer, principal financial officer, and principal accounting officer, on the Corporate Governance page of our website promptly following the date of such amendment or waiver.

### **Item 11. EXECUTIVE COMPENSATION**

The information required by this Item 11 will be set forth under the headings “Executive Compensation - Compensation Discussion & Analysis,” “Compensation and Human Resource Committee,” “Director Compensation,” and “Board and Compensation and Human Resource Committee Report on Executive Compensation” in the Definitive Proxy Statement for our 2021 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our fiscal 2020 year, and is incorporated herein by reference.

### **Item 12. SECURITY OWNERSHIPS OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information required by this Item 12 will be set forth under the headings “Security Ownership of Certain Beneficial Owners and Management” and “Equity Compensation Plan Information Table” in the Definitive Proxy Statement for our 2021 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our fiscal 2020 year, and is incorporated herein by reference.

### **Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

The information required by this Item 13 will be set forth under the headings “Related Person Transactions” and “Corporate Governance” in the Definitive Proxy Statement for our 2021 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our fiscal 2020 year, and is incorporated herein by reference.

### **Item 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The information required by this Item 14 will be set forth under the heading “Fees Paid to Independent Registered Public Accounting Firm” in the Definitive Proxy Statement for our 2021 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our fiscal 2020 year, and is incorporated herein by reference.

**PART IV****Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULE**

(a)(1) *Financial Statements*: The following is an index of the consolidated financial statements of the Company and the Report of Independent Registered Public Accounting Firm filed as part of this Form 10-K:

	<b>Page of Form 10-K</b>
<a href="#">Report of Independent Registered Public Accounting Firm</a>	<a href="#">50</a>
<a href="#">Consolidated Statements of Operations for the years ended December 31, 2020, 2019, and 2018</a>	<a href="#">53</a>
<a href="#">Consolidated Statements of Comprehensive Income (Loss) for the years ended December 31, 2020, 2019, and 2018</a>	<a href="#">54</a>
<a href="#">Consolidated Balance Sheets at December 31, 2020 and 2019</a>	<a href="#">55</a>
<a href="#">Consolidated Statements of Cash Flows for the years ended December 31, 2020, 2019, and 2018</a>	<a href="#">57</a>
<a href="#">Consolidated Statements of Changes in Stockholders' Equity for the years ended December 31, 2020, 2019, and 2018</a>	<a href="#">58</a>
<a href="#">Notes to Consolidated Financial Statements</a>	<a href="#">59</a>

(2) *Financial Statement Schedule*: Financial Statement Schedule II—Valuation and Qualifying Accounts for the years ended December 31, 2020, 2019, and 2018 is included in this Form 10-K on page 127. All other schedules are not required under the related instructions or are not applicable.

(3) *Exhibits*: See Index of Exhibits below for a listing of all exhibits to this Form 10-K. The management contracts and compensatory plans or arrangements required to be filed as an exhibit to this Form 10-K are identified in the Index of Exhibits by an asterisk (\*).

(b) The following is an index of all exhibits to this Form 10-K. Exhibits identified in parentheses in the index below, on file with the SEC, are incorporated herein by reference as exhibits hereto.

<a href="#">2.1</a>	Agreement and Plan of Merger, dated as of October 19, 2018, among JetPay Corporation, NCR Corporation and Orwell Acquisition Corporation (Exhibit 2.1 to the Current Report on Form 8-K of NCR Corporation dated October 22, 2018).
<a href="#">2.2</a>	Acquisition Agreement, dated as of January 25, 2021, among Cardtronics plc, NCR Corporation and Cardtronics USA, Inc. (Exhibit 2.1 to the Current Report on Form 8-K of NCR Corporation dated January 25, 2021).
<a href="#">3.1</a>	Articles of Amendment and Restatement of NCR Corporation (Exhibit 3.1 to the NCR Corporation Quarterly Report on Form 10-Q for the quarter ended June 30, 2019 (the "Second Quarter 2019 Quarterly Report")).
<a href="#">3.2</a>	Bylaws of NCR Corporation, as amended and restated on February 20, 2018 (Exhibit 3.2 to the Current Report on Form 8-K of NCR Corporation dated February 23, 2018).
4.1	Common Stock Certificate of NCR Corporation (Exhibit 4.1 to the NCR Corporation Annual Report on Form 10-K for the year ended December 31, 1999).
<a href="#">4.2</a>	Indenture, dated as of August 21, 2019, among NCR Corporation, NCR International, Inc. and Wells Fargo Bank, National Association (Exhibit 4.1 to the Current Report on Form 8-K of NCR Corporation dated August 21, 2019 (the "August 21, 2019 Form 8-K")).
<a href="#">4.3</a>	Indenture, dated as of August 21, 2019, among NCR Corporation, NCR International, Inc. and Wells Fargo Bank, National Association (Exhibit 4.3 to the August 21, 2019 Form 8-K).

- [4.4](#) Indenture relating to the Notes, dated April 13, 2020, among NCR Corporation, NCR International, Inc. and Wells Fargo Bank, National Association (Exhibit 4.1 to Current Report on Form 8-K of NCR Corporation dated April 13, 2020).
- [4.5](#) Indenture, dated as of August 20, 2020, among NCR Corporation, NCR International, Inc. and Wells Fargo Bank, National Association (Exhibit 4.1 to Current Report on Form 8-K of NCR Corporation dated August 20, 2020 (the “August 20, 2020 Form 8-K”)).
- [4.6](#) Indenture, dated as of August 20, 2020, among NCR Corporation, NCR International, Inc. and Wells Fargo Bank, National Association (Exhibit 4.3 to the August 20, 2020 Form 8-K).
- [4.7](#) Description of NCR Corporation Securities Registered Under Section 12 of the Exchange Act.
- [10.1](#) NCR Corporation 2011 Amended and Restated Stock Incentive Plan (formerly the NCR 2006 Stock Incentive Plan, as amended and restated effective as of December 31, 2008) (the “2011 Stock Incentive Plan”) (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated April 27, 2011). \*
- [10.1.1](#) Form of 2011 Stock Option Agreement under the 2011 Stock Incentive Plan (Exhibit 10.1 to the NCR Corporation Quarterly Report on Form 10-Q for the quarter ended March 31, 2011). \*
- [10.2](#) Amended and Restated NCR Change in Control Severance Plan effective December 31, 2008 (Exhibit 10.24.2 to the NCR Corporation Annual Report on Form 10-K for the year ended December 31, 2008 (the “2008 Annual Report”)). \*
- [10.2.1](#) First Amendment to the Amended and Restated NCR Change in Control Severance Plan (Exhibit 10.6 to the NCR Corporation Quarterly Report on Form 10-Q for the quarter ended September 30, 2011). \*
- [10.2.2](#) Second Amendment to the Amended and Restated NCR Change in Control Severance Plan (Exhibit 10.11.2 to the 2017 Annual Report). \*
- [10.3](#) Employment Agreement with William Nuti, dated July 29, 2005 (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated July 27, 2005). \*
- [10.3.1](#) Letter Agreement, dated July 26, 2006, with William Nuti (Exhibit 10.4 to the Current Report on Form 8-K of NCR Corporation dated July 25, 2006). \*
- [10.3.2](#) Second Amendment, effective as of December 12, 2008, to Letter Agreement with William Nuti dated July 29, 2005, as amended July 26, 2006 (Exhibit 10.30.2 to the 2008 Annual Report). \*
- [10.3.3](#) Letter Agreement, dated March 11, 2015, between NCR Corporation and William Nuti (Exhibit 10.5 to the NCR Corporation Quarterly Report on Form 10-Q for the quarter ended March 31, 2015). \*
- [10.4](#) NCR Corporation 2013 Stock Incentive Plan (the “2013 Stock Incentive Plan”) (Appendix A to the NCR Corporation Proxy Statement on Schedule 14A for the NCR Corporation 2013 Annual Meeting of Stockholders).\*
- [10.5](#) Agreement between NCR and the Trustees of the NCR Pension Plan (UK), dated November 14, 2013 (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated November 14, 2013).
- [10.6](#) Receivables Financing Agreement, dated as of November 21, 2014, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, Victory Receivables Corporation and the other lender parties from time to time party thereto (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated November 21, 2014 (the “November 21, 2014 Form 8-K”)).

- [10.6.1](#) First Amendment to Receivables Financing Agreement, dated as of November 21, 2016, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, Victory Receivables Corporation and the other lender parties from time to time party thereto (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated November 23, 2016).
- [10.6.2](#) Second Amendment to Receivables Financing Agreement, dated as of September 29, 2017, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, and Victory Receivables Corporation, as lenders (Exhibit 10.19.2 to the NCR Corporation Annual Report on Form 10-K for the year ended December 31, 2018).
- [10.6.3](#) Third Amendment to Receivables Financing Agreement, dated as of November 15, 2018, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, MUFG Bank, Ltd. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) and Victory Receivables Corporation, as lenders (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated November 20, 2018).
- [10.6.4](#) Fourth Amendment to Receivables Financing Agreement, dated as of April 22, 2019, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, MUFG Bank, Ltd. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) and Victory Receivables Corporation, as lenders (Exhibit 10.2 to the Second Quarter 2019 Quarterly Report).
- [10.6.5](#) Fifth Amendment to Receivables Financing Agreement, dated as of November 21, 2019, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, MUFG Bank, Ltd. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) and Victory Receivables Corporation, as lenders (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated November 21, 2019).
- [10.6.6](#) Sixth Amendment to Receivables Financing Agreement, dated as of March 31, 2020, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, and PNC Bank, National Association, MUFG Bank, Ltd. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) and Victory Receivables Corporation, as lenders (Exhibit 10.9 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2020 (the “First Quarter 2020 Quarterly Report”)).
- [10.6.7](#) Seventh Amendment to Receivables Financing Agreement, dated as of November 30, 2020, by and among NCR Receivables LLC, as borrower, NCR Corporation, as servicer, PNC Bank, National Association, as administrative agent, PNC Bank, National Association, MUFG Bank, Ltd. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) and Victory Receivables Corporation, as lenders, and PNC CAPITAL MARKETS LLC, as Structuring Agent.
- [10.7](#) Purchase and Sale Agreement, dated as of November 21, 2014, among NCR Receivables LLC, as buyer, and NCR Corporation and the other originator parties from time to time party thereto (Exhibit 10.2 to the November 21, 2014 Form 8-K).
- [10.8](#) Amended and Restated NCR Executive Severance Plan (Exhibit 10.1 to the NCR Corporation Quarterly Report on Form 10-Q for the quarter ended June 30, 2015 (the “Second Quarter 2015 Quarterly Report”)). \*
- [10.8.1](#) First Amendment to the Amended and Restated NCR Executive Severance Plan (Exhibit 10.21.1 to the 2017 Annual Report). \*
- [10.9](#) NCR Director Compensation Program effective April 23, 2013, as amended effective February 24, 2014 (the “2013 NCR Director Compensation Program”) (Exhibit 10.42 to the 2014 Annual Report). \*
- [10.9.1](#) 2014 Director Restricted Stock Unit Grant Statement under the 2013 NCR Director Compensation Program (Exhibit 10.42.1 to the 2014 Annual Report). \*



- [10.9.2](#) 2015 Director Restricted Stock Unit Grant Statement under the 2013 NCR Director Compensation Program (Exhibit 10.3 to the Second Quarter 2015 Quarterly Report). \*
- [10.9.3](#) 2016 Director Restricted Stock Unit Grant Statement under the 2013 NCR Director Compensation Program (Exhibit 10.2 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended June 30, 2016 (the “Second Quarter 2016 Quarterly Report”)). \*
- [10.10](#) NCR Employee Stock Purchase Plan, as amended and restated effective January 1, 2017 (Appendix A to the NCR Corporation Proxy Statement on Schedule 14A for the NCR Corporation 2016 Annual Meeting of Stockholders).\*
- [10.11](#) Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019, among NCR Corporation, the lenders party thereto, the foreign borrowers party thereto and JPMorgan Chase Bank, N.A., as administrative agent (Exhibit 4.1 to the Current Report on Form 8-K of NCR Corporation dated August 29, 2019 (the “August 29, 2019 Form 8-K”)).
- [10.11.1](#) Amended and Restated Guarantee and Collateral Agreement, dated as of August 22, 2011, as amended and restated as of January 6, 2014, as further amended and restated as of March 31, 2016, by and among NCR Corporation, the Foreign Borrowers party thereto, the subsidiaries of NCR Corporation identified therein and JPMorgan Chase Bank, N.A., as Administrative Agent (Exhibit 10.2 to the April 4, 2016 Form 8-K).
- [10.11.2](#) Annex A to Credit Agreement dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, among NCR Corporation, the Foreign Borrowers party thereto, the Lenders party thereto and JPMorgan Chase Bank, N.A. (Exhibit 10.1 to the Second Quarter 2016 Quarterly Report).
- [10.11.3](#) Reaffirmation Agreement, dated as of August 28, 2019, among NCR Corporation, NCR International, Inc., the foreign subsidiaries of NCR Corporation party thereto and JPMorgan Chase Bank, N.A., as administrative agent (Exhibit 4.2 to the August 29, 2019 Form 8-K).
- [10.11.4](#) First Amendment, dated as of October 7, 2019, by and among NCR Corporation, the Lenders party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011 as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019 (Exhibit 10.8 to the First Quarter 2020 Quarterly Report).
- [10.11.5](#) Second Amendment, dated as of April 7, 2020, by and among NCR Corporation, the Lenders party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011 as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019, and as further amended October 7, 2019 (Exhibit 10.3 to the to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended June 30, 2020 (the “Second Quarter 2020 Quarterly Report”)).
- [10.11.6](#) Waiver, dated as of January 14, 2021, to the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016 and as further amended and restated as of August 28, 2019, among NCR Corporation, the Lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent.
- [10.11.7](#) Third Amendment, dated as of January 22, 2021, by and among NCR Corporation, the Lenders party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019, as further amended October 7, 2019, and as further amended April 7, 2020.
- [10.11.8](#) Fourth Amendment, dated as of February 4, 2021, by and among NCR Corporation, the Lenders party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019, as further amended October 7, 2019, as further amended April 7, 2020, and as further amended January 22, 2021.

- [10.11.9](#) Incremental Revolving Facility Agreement, dated as of February 16, 2021, among NCR Corporation, the Foreign Borrowers party thereto, the Subsidiary Loan Parties thereto, the Incremental Revolving Lenders thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019, as further amended October 7, 2019, as further amended April 7, 2020, as further amended January 22, 2021, and as further amended February 4, 2021.
- [10.11.10](#) Incremental Term Loan A Facility Agreement, dated as of February 16, 2021, among NCR Corporation, the other Loan Parties thereto, the Tranche 1 Incremental Term A-2021 Lenders thereto, the Tranche 2 Incremental Term A-2021 Lenders thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent, relating to the Credit Agreement, dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019, as further amended October 7, 2019, as further amended April 7, 2020, as further amended January 22, 2021, and as further amended February 4, 2021.
- [10.12](#) Second Amended and Restated NCR Management Incentive Plan (Appendix A to the NCR Corporation Proxy Statement on Schedule 14A for the NCR Corporation 2017 Annual Meeting of Stockholders (the "2017 Proxy Statement")). \*
- [10.13](#) NCR Corporation 2017 Stock Incentive Plan (the "2017 Stock Incentive Plan") (Appendix B to the 2017 Proxy Statement). \*
- [10.13.1](#) Form of 2017 Performance-Based Restricted Stock Unit Award Agreement under the 2013 Stock Incentive Plan and 2017 Stock Incentive Plan (Exhibit 10.3 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2017 (the "First Quarter 2017 Quarterly Report")). \*
- [10.13.2](#) Form of 2017 Performance-Vesting Restricted Stock Unit Award Agreement under the 2013 Stock Incentive Plan and 2017 Stock Incentive Plan (Exhibit 10.4 to the First Quarter 2017 Quarterly Report). \*
- [10.13.3](#) Form of 2017 Director Restricted Stock Unit Grant Statement under the 2013 Stock Incentive Plan and 2017 Stock Incentive Plan (Exhibit 10.1 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended June 30, 2017 (the "Second Quarter 2017 Quarterly Report")). \*
- [10.13.4](#) Form of 2018 Director Restricted Stock Unit Grant Statement under the 2017 Stock Incentive Plan (Exhibit 10.3 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended June 30, 2018 (the "Second Quarter 2018 Quarterly Report")). \*
- [10.13.5](#) Form of 2018 Stock Option Award Agreement under the NCR Corporation 2017 Stock Incentive Plan (the "2017 Stock Incentive Plan") (Exhibit 10.1 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2018). \*
- [10.13.6](#) Form of 2018 Time-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.2 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2018). \*
- [10.13.7](#) Form of 2018 Performance-Vesting Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.3 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2018).\*
- [10.13.8](#) Form of 2018 Performance-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.4 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2018).\*
- [10.13.9](#) Form of 2019 Director Restricted Stock Unit Grant Statement under the NCR Corporation 2017 Stock Incentive Plan (Exhibit 10.1 to the Second Quarter 2019 Quarterly Report). \*
- [10.13.10](#) Form of 2019 Stock Option Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.1 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended March 31, 2019 (the "First Quarter 2019 Quarterly Report")). \*

<a href="#">10.13.11</a>	Form of 2019 Performance-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.3 to the First Quarter 2019 Quarterly Report). *
<a href="#">10.13.12</a>	Form of 2020 Premium-Priced Option Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.1 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.13</a>	Form of 2020 Premium-Priced Option Award Agreement under the 2017 Stock Incentive Plan (Executive Chairman; President and Chief Executive Officer) (Exhibit 10.2 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.14</a>	Form of 2020 Senior Executive Team Performance-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.3 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.15</a>	Form of 2020 Senior Executive Team Performance-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Executive Chairman; President and Chief Executive Officer) (Exhibit 10.4 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.16</a>	Form of 2020 Key Employee Performance-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.5 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.17</a>	Form of 2020 Time-Based Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan (Exhibit 10.6 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.13.18</a>	Form of 2020 Director Restricted Stock Unit Grant Statement under the 2017 Stock Incentive Plan (Exhibit 10.1 to the Second Quarter 2020 Quarterly Report). *
<a href="#">10.13.19</a>	Form of Senior Executive Team Performance Share Restricted Stock Unit Award Agreement under the 2017 Stock Incentive Plan. *
<a href="#">10.13.20</a>	First Amendment to the 2017 Stock Incentive Plan (Appendix A to the NCR Corporation Proxy Statement on Schedule 14A for the NCR Corporation 2020 Annual Meeting of Stockholders). *
<a href="#">10.14</a>	NCR Director Compensation Program effective May 1, 2017 (Exhibit 10.1 to the Second Quarter 2017 Quarterly Report). *
<a href="#">10.15</a>	Master Manufacturing Agreement, dated April 23, 2018, by and between Jabil Inc. and NCR Corporation (Exhibit 10.1 to the Second Quarter 2018 Quarterly Report).
<a href="#">10.16</a>	Master Hardware Supply Agreement, dated June 28, 2018, between Universal Global Scientific Industrial Co., Ltd. and NCR Corporation (Exhibit 10.2 to the Second Quarter 2018 Quarterly Report).
<a href="#">10.17</a>	Employment Agreement, dated April 27, 2018, between Michael Hayford and NCR Corporation (Exhibit 10.4 to the Second Quarter 2018 Quarterly Report). *
<a href="#">10.18</a>	Employment Agreement, dated April 27, 2018, between Frank Martire and NCR Corporation (Exhibit 10.5 to the Second Quarter 2018 Quarterly Report). *
<a href="#">10.19</a>	Letter Agreement, dated April 30, 2018 between William R. Nuti and NCR Corporation (Exhibit 10.6 to the Second Quarter 2018 Quarterly Report). *
<a href="#">10.20</a>	Letter Agreement, dated May 2, 2018, between Paul E. Langenbahn and NCR Corporation (Exhibit 10.7 to the Second Quarter 2018 Quarterly Report). *
<a href="#">10.21</a>	Letter Agreement, dated March 19, 2018, between Mark D. Benjamin and NCR Corporation (Exhibit 10.8 to the Second Quarter 2018 Quarterly Report). *
<a href="#">10.22</a>	Employment Agreement, dated July 18, 2018, between Owen Sullivan and NCR Corporation (Exhibit 10.1 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended September 30, 2018 (the "Third Quarter 2018 Quarterly Report")). *

<a href="#">10.23</a>	Amendment, effective as of July 26, 2018, to Employment Agreement, dated May 2, 2018, between Paul Langenbahn and NCR Corporation (Exhibit 10.2 to the Third Quarter 2018 Quarterly Report). *
<a href="#">10.24</a>	Employment Agreement, dated August 27, 2018, between Andre J. Fernandez and NCR Corporation (Exhibit 10.3 to the Third Quarter 2018 Quarterly Report). *
<a href="#">10.25</a>	Retirement Agreement, dated March 11, 2019, between Robert P. Fishman and NCR Corporation (Exhibit 10.4 to the First Quarter 2019 Quarterly Report). *
<a href="#">10.26</a>	Stock Repurchase and Conversion Agreement, dated as of September 18, 2019, by and between NCR Corporation, BCP VI SBS ESC Holdco L.P., Blackstone NCR Holdco L.P., BTO NCR Holdings - ESC L.P., and BTO NCR Holdings L.P. (Exhibit 10.1 to the Current Report on Form 8-K of NCR Corporation dated September 19, 2019).
<a href="#">10.27</a>	Separation Agreement, dated December 18, 2019, between Paul E. Langenbahn and NCR Corporation (Exhibit 10.7 to the First Quarter 2020 Quarterly Report). *
<a href="#">10.28</a>	Employment Agreement, dated June 15, 2020, between Timothy Oliver and NCR Corporation (Exhibit 10.4 to the Second Quarter 2020 Quarterly Report). *
<a href="#">10.29</a>	Separation Agreement, dated July 8, 2020, between Andre J. Fernandez and NCR Corporation (Exhibit 10.1 to the Quarterly Report on Form 10-Q of NCR Corporation for the quarter ended September 30, 2020). *
<a href="#">10.30</a>	NCR Corporation Deferred Compensation Plan. *
<a href="#">21</a>	Subsidiaries of NCR Corporation.
<a href="#">23.1</a>	Consent of Independent Registered Public Accounting Firm.
<a href="#">31.1</a>	Certification pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934.
<a href="#">31.2</a>	Certification pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934.
<a href="#">32</a>	Certification pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following materials from NCR Corporation's Annual Report on Form 10-K for the year ended December 31, 2020, formatted in iXBRL (Inline Extensible Business Reporting Language): (i) consolidated statements of operations for the fiscal years ended December 31, 2020, 2019 and 2018; (ii) consolidated statements of comprehensive income for the fiscal years ended December 31, 2020, 2019 and 2018; (iii) consolidated balance sheets as of December 31, 2020 and 2019; (iv) consolidated statements of cash flows for the fiscal year ended December 31, 2020, 2019 and 2018; (v) consolidated statements of changes in stockholders' equity for fiscal years ended December 31, 2020, 2019 and 2018; and (vi) the notes to the consolidated financial statements.
104	Cover Page Interactive Data File, formatted in inline XBRL and contained in Exhibit 101.

\* Management contracts or compensatory plans/arrangements.

**Item 16. FORM 10-K SUMMARY**

None.

**NCR Corporation****SCHEDULE II--VALUATION AND QUALIFYING ACCOUNTS  
(In millions)**

Column A	Column B	Column C		Column D	Column E
<u>Description</u>	<u>Balance at Beginning of Period</u>	<u>Additions</u>		<u>Deductions</u>	<u>Balance at End of Period</u>
		<u>Charged to Costs &amp; Expenses</u>	<u>Charged to Other Accounts</u>		
<b>Year Ended December 31, 2020</b>					
Allowance for doubtful accounts	\$44	\$33	\$—	\$26	\$51
Deferred tax asset valuation allowance	\$352	\$26	\$10	\$47	\$341
<b>Year Ended December 31, 2019</b>					
Allowance for doubtful accounts	\$31	\$24	\$—	\$11	\$44
Deferred tax asset valuation allowance	\$485	\$23	\$—	\$156	\$352
<b>Year Ended December 31, 2018</b>					
Allowance for doubtful accounts	\$37	\$14	\$—	\$20	\$31
Deferred tax asset valuation allowance	\$415	\$100	\$—	\$30	\$485



<b>Signature</b>	<b>Title</b>
<hr/> <i>/s/ Frank R. Martire</i> <b>Frank R. Martire</b>	Executive Chairman
<hr/> <i>/s/ Michael D. Hayford</i> <b>Michael D. Hayford</b>	President and Chief Executive Officer, and Director (Principal Executive Officer)
<hr/> <i>/s/ Timothy C. Oliver</i> <b>Timothy C. Oliver</b>	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
<hr/> <i>/s/ Beth A. Potter</i> <b>Beth A. Potter</b>	Chief Accounting Officer (Principal Accounting Officer)
<hr/> <i>/s/ Mark W. Begor</i> <b>Mark W. Begor</b>	Director
<hr/> <b>Gregory Blank</b>	Director
<hr/> <i>/s/ Catherine L. Burke</i> <b>Catherine L. Burke</b>	Director
<hr/> <b>Chinh E. Chu</b>	Director
<hr/> <i>/s/ Deborah A. Farrington</i> <b>Deborah A. Farrington</b>	Director
<hr/> <i>/s/ Georgette D. Kiser</i> <b>Georgette D. Kiser</b>	Director
<hr/> <i>/s/ Kirk T. Larsen</i> <b>Kirk T. Larsen</b>	Director
<hr/> <i>/s/ Matthew A. Thompson</i> <b>Matthew A. Thompson</b>	Director

Date: February 26, 2021

**DESCRIPTION OF THE REGISTRANT'S SECURITIES  
REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES  
EXCHANGE ACT OF 1934**

*NCR Corporation has one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended: our Common Stock.*

**General**

Our authorized capital stock consists of 500,000,000 shares of Common Stock and 100,000,000 shares of preferred stock, par value \$0.01 per share (the "Preferred Stock"), of which 2,265,389 shares are classified and designated as Series A Convertible Preferred Stock, liquidation preference \$1,000 per share (the "Series A Preferred Stock"). The rights of our Preferred Stock may be set by our Board of Directors from time to time. As of February 12, 2021, 130,068,495 shares of Common Stock were issued and outstanding (and no shares of Common Stock subject to forfeiture conditions were issued and outstanding) and 275,867 shares of Preferred Stock, consisting entirely of Series A Preferred Stock, were issued and outstanding.

Our Common Stock is traded on the New York Stock Exchange (the "NYSE") under the trading symbol "NCR". The following description of our capital stock does not purport to be complete and is subject to and qualified by our charter (the "Charter"), our Amended and Restated Bylaws (the "Bylaws") and the provisions of applicable Maryland law. The Charter and Bylaws are filed as exhibits to our Annual Report on Form 10-K, of which this Exhibit is a part, and are incorporated by reference. As used herein, unless otherwise expressly stated or the context otherwise requires, the terms "NCR", "we", "our" and "us" refer to NCR Corporation.

**Common Stock**

*Voting Rights*

The holders of the Common Stock are entitled to one vote for each share on all matters voted on by stockholders, including elections of directors, and, except as otherwise required by law or provided in any resolution adopted by the Board of Directors with respect to any series of Preferred Stock, the holders of such shares will possess all voting power. The holders of shares of Series A Preferred Stock are entitled to vote with the holders of the Common Stock as a single class on all matters submitted to a vote of the holders of Common Stock, with holders of Series A Preferred Stock voting on an as-converted basis, and certain matters will be voted on exclusively by the holders of Series A Preferred Stock as a separate class. The holders of the Common Stock do not have any conversion, redemption or preemptive rights to subscribe to any securities of NCR and generally do not have appraisal rights.

*Election and Removal of Directors*

The Charter and Bylaws provide that the number of our directors may be established only by our Board of Directors but may not be more than 20 or fewer than the minimum number permitted by the Maryland General Corporation Law (the "MGCL"), which is one. There will be no cumulative voting in the election of directors, and a director will be elected by a majority of all



the votes cast at a duly called special or annual meeting of stockholders at which a quorum is present.

Except as may be provided by the terms of any class or series of preferred stock, any director may be removed for cause, by the affirmative vote of the holders of not less than 80% of the voting power of all shares of our stock entitled to vote generally in the election of directors.

#### *Extraordinary Actions; Amendment to Charter and Bylaws*

As permitted by Maryland law, the Charter provides that we may amend the Charter, consolidate, merge, convert into another form of entity, sell all or substantially all of our assets, engage in a statutory share exchange or dissolve if such action is approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. In addition, our Bylaws may be altered or repealed and new Bylaws may be adopted by the affirmative vote of a majority of the total number of directors that we would have if there were no vacancies on the Board.

The Bylaws may also be amended by the affirmative vote of the holders of a majority of the voting power of all shares of our stock entitled to vote generally in the election of directors, voting together as a single class. Notwithstanding the foregoing, the affirmative vote of 80% of the voting power of all shares of our stock entitled to vote generally in the election of directors, voting together as a single class, is required to amend the provisions of the Charter relating to (i) stockholder actions generally (Article V); (ii) our Board of Directors (Article VII); (iii) the rights of our stockholders to amend the Bylaws (Section 8.2); and (iv) the voting requirements relating to amendments to the Charter (Article IX). In addition, the affirmative vote of 80% of the voting power of all shares of our stock entitled to vote generally in the election of directors, voting together as a single class, is required to amend the provisions of our Bylaws relating to (i) the calling of special meetings of stockholders (Article I, Section 2); (ii) the advance notice procedures for stockholder proposals (Article I, Section 8); (iii) the opt-out from the Control Share Acquisition Act (Article I, Section 11); (iv) the general powers, tenure and number of directors (Article II, Sections 1, 2 and 3); and (v) the approval of amendments to the Bylaws (Article X).

#### *Proxy Access*

The Bylaws include provisions permitting, subject to certain eligibility, procedural and disclosure requirements, qualifying stockholders, or a qualifying group of no more than 20 stockholders, that have maintained continuous ownership of at least three percent of our outstanding shares of Common Stock for at least the three prior years to require us to include in our proxy materials for an annual meeting of stockholders a number of director nominees not to exceed the greater of two nominees or 25 percent of the number of directors up for election.

#### *Business Combination Act and Control Share Acquisition Act*

Certain provisions of the MGCL may have the effect of delaying, deferring or preventing a third party from making a proposal to acquire us or of implementing a change in control under

circumstances that otherwise could provide our stockholders with the opportunity to realize a premium over the then-prevailing market price of their shares of Common Stock, including:

- “business combination” provisions that, subject to certain exceptions and limitations, prohibit certain business combinations between a Maryland corporation and an “interested stockholder” (defined generally as any person who beneficially owns 10% or more of the voting power of our outstanding voting stock or an affiliate or associate of ours who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of our then outstanding shares of stock) or an affiliate of any interested stockholder for five years after the most recent date on which the stockholder becomes an interested stockholder, and thereafter imposes two super-majority stockholder voting requirements on these combinations, unless, among other conditions, our common stockholders receive a minimum price, as defined in the MGCL, for their shares of stock and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares of stock; and
- “control share” provisions providing that, subject to certain exceptions, holders of “control shares” (defined as voting shares that, when aggregated with all other shares controlled by the stockholder, entitle the stockholder to exercise one of three increasing ranges of voting power in electing directors) acquired in a “control share acquisition” (defined as the direct or indirect acquisition of ownership or control of issued and outstanding “control shares”) have no voting rights except to the extent approved by our stockholders by the affirmative vote of at least two-thirds of all the votes entitled to be cast on the matter, excluding shares owned by the acquirer, by our officers, or by our employees who are also directors of our company.

We have opted out of the business combination provisions of the MGCL and any business combination between us and any other person is exempt from the business combination provisions of the MGCL. In addition, pursuant to a provision in the Bylaws, we opted out of the control share provisions of the MGCL.

#### *Subtitle 8 of the MGCL*

The “unsolicited takeover” provisions of Title 3, Subtitle 8, of the MGCL permit our Board of Directors, without stockholder approval and regardless of what is provided in the Charter or the Bylaws, to implement certain takeover defenses, including adopting a classified board. Such takeover defenses may have the effect of delaying, deferring or preventing a third party from making an acquisition proposal for us or of delaying, deferring, or preventing a change in control of us under the circumstances that otherwise could provide our common stockholders with the opportunity to realize a premium over the then-prevailing market price of their shares of Common Stock.

#### *Special Meetings of Stockholders*

Our Board of Directors, the chairman of our Board of Directors, our president or our chief executive officer may call a special meeting of our stockholders. In addition, the Bylaws provide that a special meeting of our stockholders to act on any matter that may properly be considered at

a meeting of our stockholders must be called by our secretary upon the written request of stockholders entitled to cast 25 percent of all the votes entitled to be cast on such matter at the meeting and containing the information required by the Bylaws.

#### *Advance Notice of Director Nominations and New Business Proposals*

The Bylaws provide that nominations of individuals for election as directors and proposals of business to be considered by stockholders at any annual meeting may be made only (1) pursuant to our notice of the meeting, (2) by or at the direction of our Board of Directors or (3) by any stockholder who was a stockholder of record both at the time of provision of notice and at the time of the meeting, who is entitled to vote at the meeting in the election of each individual so nominated or on such other proposed business and who has complied with the advance notice procedures of the Bylaws.

The Bylaws provide that only the business specified in the notice of the meeting may be brought before a special meeting of our stockholders. Nominations of individuals for election as directors at a special meeting of stockholders at which directors are to be elected may be made only (1) by or at the direction of our Board of Directors or (2) if the special meeting has been called in accordance with the Bylaws for the purpose of electing directors, by a stockholder who is a stockholder of record both at the time of provision of notice and at the time of the special meeting, who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the advance notice procedures of the Bylaws.

A stockholder's notice must contain certain information specified by the Bylaws about the stockholder, its affiliates and any proposed business or nominee for election as a director, including information about the economic interest of the stockholder, its affiliates and any proposed nominee in us.

#### *Dividend and Liquidation Rights*

Subject to any preferential rights of any outstanding series of Preferred Stock created by the Board of Directors from time to time, including the Series A Preferred Stock, the holders of the Common Stock will be entitled to such dividends as may be authorized from time to time by the Board of Directors and declared by us from assets legally available therefor, and upon liquidation will be entitled to receive pro rata all assets of NCR available for distribution to such holders.

#### *Other Matters*

The Board of Directors may, without the consent of holders of the Common Stock, classify additional shares of stock as Series A Preferred Stock or create one or more new series of Preferred Stock. In any such event, the rights of the holders of the Common Stock will be subject to the preferential rights of the holders of Preferred Stock, including the Series A Preferred Stock.

#### **Preferred Stock**

##### *Limitations on Rights of Holders of Common Stock*

The Charter authorizes the Board of Directors to establish one or more classes or series of Preferred Stock and to determine, with respect to any class or series of Preferred Stock, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of such class or series. We believe that the power of the Board of Directors to issue one or more classes or series of Preferred Stock provides us with flexibility in structuring possible future financings and acquisitions and in meeting other corporate needs that might arise. The authorized shares of Preferred Stock, as well as shares of Common Stock, are available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. The NYSE currently requires stockholder approval as a prerequisite to listing shares in several instances, including where the present or potential issuance of shares could result in an increase in the number of shares of Common Stock, or in the amount of voting securities, outstanding of at least 20%. If the approval of our stockholders is not required for the issuance of shares of Preferred Stock or Common Stock, the Board of Directors may determine not to seek stockholder approval.

#### *Anti-Takeover Protections*

A decision by our Board of Directors to elect to be subject to the provisions of Subtitle 8, the supermajority vote required to remove directors and the advance notice provisions of our Bylaws could delay, defer or prevent a transaction or a change of control of our company. In addition, although the Board of Directors has no intention at the present time of doing so, it could issue an additional class or series of Preferred Stock that could, depending on the terms of such class or series, impede the completion of a merger, tender offer or other takeover attempt. The Board of Directors will make any determination to issue such shares based on its judgment as to the best interests of NCR. The Board of Directors, in so acting, could issue Preferred Stock having terms that could discourage an acquisition attempt through which an acquiror may be able to change the composition of the Board of Directors, including a tender offer or other transaction that some, or a majority, of our stockholders might believe to be in their best interests or in which stockholders might receive a premium for their stock over the then-current market price of such stock.

# **NCR Corporation Deferred Compensation Plan**

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January 1, 2021

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## **Preamble**

The Plan is intended to be a “plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees” within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of the Employee Retirement Income Security Act of 1974, as amended, or an “excess benefit plan” within the meaning of Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended, or a combination of both. The Plan is further intended to conform with the requirements of Internal Revenue Code Section 409A and the final regulations issued thereunder and shall be interpreted, implemented and administered in a manner consistent therewith.

[Insert Client Name]

[Insert Plan Name] Preamble

## **Article 1 - General**

### **1.1. Plan**

The Plan will be referred to by the name specified in the Adoption Agreement.

### **1.2. Effective Dates**

- (a) Original Effective Date. The Original Effective Date is the date as of which the Plan was initially adopted.
- (b) Amendment Effective Date. The Amendment Effective Date is the date specified in the Adoption Agreement as of which the Plan is amended and restated. Except to the extent otherwise provided herein or in the Adoption Agreement, the Plan shall apply to amounts deferred and benefit payments made on or after the Amendment Effective Date.
- (c) Special Effective Date. A Special Effective Date may apply to any given provision if so specified in Appendix A of the Adoption Agreement. A Special Effective Date will control over the Original Effective Date or Amendment Effective Date, whichever is applicable, with respect to such provision of the Plan.

### **1.3. Amounts Not Subject to Code Section 409A**

Except as otherwise indicated by the Plan Sponsor in Section 1.01 of the Adoption Agreement, amounts deferred before January 1, 2005 that are earned and vested on December 31, 2004 will be separately accounted for and administered in accordance with the terms of the Plan as in effect on December 31, 2004.

## **Article 2 - Definitions**

Pronouns used in the Plan are in the masculine gender but include the feminine gender unless the context clearly indicates otherwise. Wherever used herein, the following terms have the meanings set forth below, unless a different meaning is clearly required by the context:

### **2.1. Account**

"Account" means an account established for the purpose of recording amounts credited on behalf of a Participant and any income, expenses, gains, losses or distributions included thereon. The Account shall be a bookkeeping entry only and shall be utilized solely as a device for the measurement and determination of the amounts to be paid to a Participant or to the Participant's Beneficiary pursuant to the Plan.

### **2.2. Administrator**

"Administrator" means the person or persons designated by the Plan Sponsor in Section 1.05 of the Adoption Agreement to be responsible for the administration of the Plan. If no Administrator is designated in the Adoption Agreement, the Administrator is the Plan Sponsor.

### **2.3. Adoption Agreement**

"Adoption Agreement" means the agreement adopted by the Plan Sponsor that establishes the Plan.

### **2.4. Beneficiary**

"Beneficiary" means the persons, trusts, estates or other entities entitled under Section 8.2 to receive benefits under the Plan upon the death of a Participant.

### **2.5. Board or Board of Directors**

"Board" or "Board of Directors" means the Board of Directors of the Plan Sponsor.

### **2.6. Bonus**

"Bonus" means an amount of incentive remuneration payable by the Employer to a Participant.

### **2.7. Change in Control**

"Change in Control" means the occurrence of an event involving the Plan Sponsor that is described in Section 9.7.

### **2.8. Code**

“Code” means the Internal Revenue Code of 1986, as amended.

## **2.9. Compensation**

“Compensation” has the meaning specified in Section 3.01 of the Adoption Agreement.

## **2.10. Director**

“Director” means a non-employee member of the Board who has been designated by the Employer as eligible to participate in the Plan.

## **2.11. Disability**

“Disability” means a determination by the Administrator that the Participant is either (a) unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or (b) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or last for a continuous period of not less than twelve months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Employer. A Participant will be considered to have incurred a Disability if he is determined to be totally disabled by the Social Security Administration or the Railroad Retirement Board.

## **2.12. Eligible Employee**

“Eligible Employee” means an employee of the Employer who satisfies the requirements in Section 2.01 of the Adoption Agreement.

## **2.13. Employer**

“Employer” means the Plan Sponsor and any other entity which is authorized by the Plan Sponsor to participate in and, in fact, does adopt the Plan.

## **2.14. ERISA**

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

## **2.15. Identification Date**

“Identification Date” means the date as of which Key Employees are determined which is specified in Section 1.06 of the Adoption Agreement.

## **2.16. Key Employee**

“Key Employee” means an employee who satisfies the conditions set forth in Section 9.6.

### **2.17. Participant**

“Participant” means an Eligible Employee or Director who commences participation in the Plan in accordance with Article 3.

### **2.18. Plan**

“Plan” means the unfunded plan of deferred compensation set forth herein, including the Adoption Agreement and any trust agreement, as adopted by the Plan Sponsor and as amended from time to time.

### **2.19. Plan Sponsor**

“Plan Sponsor” means the entity identified in Section 1.03 of the Adoption Agreement or any successor by merger, consolidation or otherwise. The Compensation and Human Resource Committee of the Board of Directors of NCR Corporation shall have the authority to exercise all rights and obligations of the Plan Sponsor pursuant to the Plan.

### **2.20. Plan Year**

“Plan Year” means the period identified in Section 1.02 of the Adoption Agreement.

### **2.21. Related Employer**

“Related Employer” means the Employer and (a) any corporation that is a member of a controlled group of corporations as defined in Code Section 414(b) that includes the Employer and (b) any trade or business that is under common control as defined in Code Section 414(c) that includes the Employer.

### **2.22. Retirement**

“Retirement” has the meaning specified in 6.01(f) of the Adoption Agreement.

### **2.23. Separation from Service**

“Separation from Service” means the date that the Participant dies, retires or otherwise has a termination of employment with respect to all entities comprising the Related Employer. A Separation from Service does not occur if the Participant is on military leave, sick leave or other bona fide leave of absence if the period of leave does not exceed six months or such longer period during which the Participant’s right to re-employment is provided by statute or contract. If the period of leave exceeds six months and the Participant’s right to re-employment is not provided either by statute or contract, a Separation from Service will be deemed to have occurred on the first day following the six-month period. If the period of leave is due to any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than six months, where the impairment causes the Participant to be unable to perform the duties of his position of employment or any substantially similar position of employment, a 29 month period of absence may be substituted for the six month period.

Whether a termination of employment has occurred is based on whether the facts and circumstances indicate that the Related Employer and the Participant reasonably anticipated that no further services would be performed after a certain date or that the level of bona fide services the Participant would perform after such date (whether as an employee or as an independent contractor) would permanently decrease to no more than 20 percent of the average level of bona fide services performed (whether as an employee or an independent contractor) over the immediately preceding 36 month period (or the full period of services to the Related Employer if the employee has been providing services to the Related Employer for less than 36 months).

An independent contractor is considered to have experienced a Separation from Service with the Related Employer upon the expiration of the contract (or, in the case of more than one contract, all contracts) under which services are performed for the Related Employer if the expiration constitutes a good-faith and complete termination of the contractual relationship.

If a Participant provides services as both an employee and an independent contractor of the Related Employer, the Participant must separate from service both as an employee and as an independent contractor to be treated as having incurred a Separation from Service. If a Participant ceases providing services as an independent contractor and begins providing services as an employee, or ceases providing services as an employee and begins providing services as an independent contractor, the Participant will not be considered to have experienced a Separation from Service until the Participant has ceased providing services in both capacities.

If a Participant provides services both as an employee and as a member of the Board of Directors of a corporate Related Employer (or an analogous position with respect to a noncorporate Related Employer), the services provided as a Director are not taken into account in determining whether the Participant has incurred a Separation from Service as an employee for purposes of a nonqualified deferred compensation plan in which the Participant participates as an employee that is not aggregated under Code Section 409A with any plan in which the Participant participates as a Director.

If a Participant provides services both as an employee and as a member of the Board of Directors of a corporate related Employer (or an analogous position with respect to a noncorporate Related Employer), the services provided as an employee are not taken into account in determining whether the Participant has experienced a Separation from Service as a Director for purposes of a nonqualified deferred compensation plan in which the Participant participates as a Director that is not aggregated under Code Section 409A with any plan in which the Participant participates as an employee.

All determinations of whether a Separation from Service has occurred will be made in a manner consistent with Code Section 409A and the final regulations thereunder.

## **2.24. Unforeseeable Emergency**

“Unforeseeable Emergency” means a severe financial hardship of the Participant resulting from an illness or accident of the Participant, the Participant’s spouse, the Participant’s Beneficiary, or the Participant’s dependent (as defined in Code Section 152, without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B); loss of the Participant’s property due to casualty; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

**2.25. Valuation Date**

“Valuation Date” means each business day of the Plan Year that the New York Stock Exchange is open.

**2.26. Years of Service**

“Years of Service” means each one year period for which the Participant receives service credit in accordance with the provisions of Section 7.01(d) of the Adoption Agreement.



## ***Article 3 - Participation***

### **3.1. Participation**

The Participants in the Plan shall be those Directors and employees of the Employer who satisfy the requirements of Section 2.01 of the Adoption Agreement.

### **3.2. Termination of Participation**

The Administrator may terminate a Participant's participation in the Plan in a manner consistent with Code Section 409A. If the Employer terminates a Participant's participation before the Participant experiences a Separation from Service the Participant's vested Accounts shall be paid in accordance with the provisions of Article 9.

## **Article 4 - Participant Elections**

### **4.1. Deferral Agreement**

If permitted by the Plan Sponsor in accordance with Section 4.01 of the Adoption Agreement, each Eligible Employee and Director may elect to defer his Compensation within the meaning of Section 3.01 of the Adoption Agreement by executing in writing or electronically, a deferral agreement in accordance with rules and procedures established by the Administrator and the provisions of this Article 4.

A new deferral agreement must be timely executed for each Plan Year during which the Eligible Employee or Director desires to defer Compensation. An Eligible Employee or Director who does not timely execute a deferral agreement shall be deemed to have elected zero deferrals of Compensation for such Plan Year.

A deferral agreement may be changed or revoked during the period specified by the Administrator. Except as provided in Section 9.3 or in Section 4.01(c) of the Adoption Agreement, a deferral agreement becomes irrevocable at the close of the specified period.

### **4.2. Amount of Deferral**

An Eligible Employee or Director may elect to defer Compensation in any amount permitted by Section 4.01(a) of the Adoption Agreement.

### **4.3. Timing of Election to Defer**

Each Eligible Employee or Director who desires to defer Compensation otherwise payable during a Plan Year must execute a deferral agreement within the period preceding the Plan Year specified by the Administrator. Each Eligible Employee who desires to defer Compensation that is a Bonus must execute a deferral agreement within the period preceding the Plan Year during which the Bonus is earned that is specified by the Administrator, except that if the Bonus can be treated as performance based compensation as described in Code Section 409A(a)(4)(B)(iii), the deferral agreement may be executed within the period specified by the Administrator, which period, in no event, shall end after the date which is six months prior to the end of the period during which the Bonus is earned, provided the Participant has performed services continuously from the later of the beginning of the performance period or the date the performance criteria are established through the date the Participant executed the deferral agreement and provided further that the compensation has not yet become 'readily ascertainable' within the meaning of Treas. Reg. § 1.409A-2(a)(8). In addition, if the Compensation qualifies as 'fiscal year compensation' within the meaning of Treas. Reg. § 1.409A-2(a)(6), the deferral agreement may be made not later than the end of the Employer's taxable year immediately preceding the first taxable year of the Employer in which any services are performed for which such Compensation is payable.

Except as otherwise provided below, an employee who is classified or designated as an Eligible Employee during a Plan Year or a Director who is designated as eligible to participate during a Plan Year may elect to defer Compensation otherwise payable during the remainder of such Plan Year in accordance with the rules of this Section 4.3 by executing a deferral agreement within the thirty (30) day period beginning on the date the employee is classified or designated as an Eligible Employee or the date the Director is designated as eligible, whichever is applicable, if permitted by Section 4.01(b)(ii) of the Adoption Agreement. If Compensation is based on a specified performance period that begins before the Eligible Employee or Director executes his deferral agreement, the election will be deemed to apply to the portion of such Compensation equal to the total amount of Compensation for the performance period multiplied by the ratio of the number of days remaining in the performance period after the election becomes irrevocable and effective over the total number of days in the performance period. The rules of this paragraph shall not apply unless the Eligible Employee or Director can be treated as initially eligible in accordance with Treas. Reg. § 1.409A-2(a)(7).

#### **4.4 Election of Payment Schedule and Form of Payment**

All elections of a payment schedule and a form of payment will be made in accordance with rules and procedures established by the Administrator and the provisions of this Section 4.4.

- (a) If the Plan Sponsor has elected to permit annual distribution elections in accordance with Section 6.01(h) of the Adoption Agreement the following rules apply. At the time an Eligible Employee or Director completes a deferral agreement, the Eligible Employee or Director must elect a distribution event (which includes a specified time) and a form of payment for the Compensation subject to the deferral agreement from among the options the Plan Sponsor has made available for this purpose and which are specified in 6.01(b) of the Adoption Agreement. Prior to the time required by Treas. Reg. § 1.409A-2, the Eligible Employee or Director shall elect a distribution event (which includes a specified time) and a form of payment for any Employer contributions that may be credited to the Participant's Account during the Plan Year. If an Eligible Employee or Director fails to elect a distribution event, he shall be deemed to have elected Separation from Service as the distribution event. If he fails to elect a form of payment, he shall be deemed to have elected a lump sum form of payment.
- (b) If the Plan Sponsor has elected not to permit annual distribution elections in accordance with Section 6.01(h) of the Adoption Agreement the following rules apply. At the time an Eligible Employee or Director first completes a deferral agreement but in no event later than the time required by Treas. Reg. § 1.409A-2, the Eligible Employee or Director must elect a distribution event (which includes a specified time) and a form of payment for amounts credited to his Account from among the options the Plan Sponsor has made available for this purpose and which are specified in Section 6.01(b) of the Adoption Agreement. If an Eligible Employee or Director fails to elect a distribution event, he shall be deemed to have elected Separation from Service in the distribution event. If he fails to elect a form of payment, he shall be deemed to have elected a lump sum form of payment.

## ***Article 5 - Employer Contributions***

### **5.1. Matching Contributions**

If elected by the Plan Sponsor in Section 5.01(a) of the Adoption Agreement, the Employer will credit the Participant's Account with a matching contribution determined in accordance with the formula specified in Section 5.01(a) of the Adoption Agreement. The matching contribution will be treated as allocated to the Participant's Account at the time specified in Section 5.01(a)(iii) of the Adoption Agreement.

### **5.2. Other Contributions**

If elected by the Plan Sponsor in Section 5.01(b) of the Adoption Agreement, the Employer will credit the Participant's Account with a contribution determined in accordance with the formula or method specified in Section 5.01(b) of the Adoption Agreement. The contribution will be treated as allocated to the Participant's Account at the time specified in Section 5.01(b)(iii) of the Adoption Agreement.

## ***Article 6 -Accounts and Credits***

### **6.1. Establishment of Account**

For accounting and computational purposes only, the Administrator will establish and maintain an Account on behalf of each Participant which will reflect the credits made pursuant to Section 6.2, distributions or withdrawals, along with the earnings, expenses, gains and losses allocated thereto, attributable to the hypothetical investments made with the amounts in the Account as provided in Article 7. The Administrator will establish and maintain such other records and accounts, as it decides in its discretion to be reasonably required or appropriate to discharge its duties under the Plan.

### **6.2 Credits to Account**

A Participant's Account will be credited for each Plan Year with the amount of his elective deferrals under Section 4.1 at the time the amount subject to the deferral election would otherwise have been payable to the Participant and the amount of Employer contributions treated as allocated on his behalf under Article 5.

## **Article 7 - Investment of Contributions**

### **7.1. Investment Options**

The amount credited to each Account shall be treated as invested in the investment options designated for this purpose by the Administrator, however, for amounts deferred under Section 4.01(a)(i) of the Adoption Agreement related to Restricted Stock Units (RSU), such deferrals will be treated as invested in shares of common stock of NCR Corporation until distributed in accordance with Article 9.

### **7.2 Adjustment of Accounts**

The amount credited to each Account shall be adjusted for hypothetical investment earnings, expenses, gains or losses in an amount equal to the earnings, expenses, gains or losses attributable to the investment options selected by the party designated in Section 9.01 of the Adoption Agreement from among the investment options provided in Section 7.1. If permitted by Section 9.01 of the Adoption Agreement, a Participant (or the Participant's Beneficiary after the death of the Participant) may, in accordance with rules and procedures established by the Administrator, select the investments from among the options provided in Section 7.1 to be used for the purpose of calculating future hypothetical investment adjustments to the Account or to future credits to the Account under Section 6.2 effective as of the Valuation Date coincident with or next following notice to the Administrator. Each Account shall be adjusted as of each Valuation Date to reflect: (a) the hypothetical earnings, expenses, gains and losses described above; (b) amounts credited pursuant to Section 6.2; and (c) distributions or withdrawals. In addition, each Account may be adjusted for its allocable share of the hypothetical costs and expenses associated with the maintenance of the hypothetical investments provided in Section 7.1.

## **Article 8 - Right to Benefits**

### **8.1. Vesting**

A Participant, at all times, has a 100% nonforfeitable interest in the amounts credited to his Account attributable to his elective deferrals made in accordance with Section 4.1.

A Participant's right to the amounts credited to his Account attributable to Employer contributions made in accordance with Article 5 shall be determined in accordance with the relevant schedule and provisions in Section 7.01 of the Adoption Agreement. Upon a Separation from Service and after application of the provisions of Section 7.01 of the Adoption Agreement, the Participant shall forfeit the nonvested portion of his Account.

### **8.2. Death**

The Plan Sponsor may elect to accelerate vesting upon the death of the Participant in accordance with Section 7.01(c) of the Adoption Agreement and/or to accelerate distributions upon death in accordance with Section 6.01(b) or Section 6.01(d) of the Adoption Agreement. If the Plan Sponsor does not elect to accelerate distributions upon death in accordance with Section 6.01(b) or Section 6.01(d) of the Adoption Agreement, the vested amount credited to the Participant's Account will be paid in accordance with the provisions of Article 9.

A Participant may designate a Beneficiary or Beneficiaries, or change any prior designation of Beneficiary or Beneficiaries in accordance with rules and procedures established by the Administrator.

A copy of the death notice or other sufficient documentation must be filed with and approved by the Administrator. If upon the death of the Participant there is, in the opinion of the Administrator, no designated Beneficiary for part or all of the Participant's vested Account, such amount will be paid to his estate (such estate shall be deemed to be the Beneficiary for purposes of the Plan) in accordance with the provisions of Article 9.

### **8.3. Disability**

If the Plan Sponsor has elected to accelerate vesting upon the occurrence of a Disability in accordance with Section 7.01(c) of the Adoption Agreement and/or to permit distributions upon Disability in accordance with Section 6.01(b) or Section 6.01(d) of the Adoption Agreement, the determination of whether a Participant has incurred a Disability shall be made by the Administrator in its sole discretion in a manner consistent with the requirements of Code Section 409A.

## **Article 9 - Distribution of Benefits**

### **9.1. Amount of Benefits**

The vested amount credited to a Participant's Account as determined under Articles 6, 7 and 8 shall determine and constitute the basis for the value of benefits payable to the Participant under the Plan.

### **9.2. Method and Timing of Distributions**

Except as otherwise provided in this Article 9, distributions under the Plan shall be made in accordance with the elections made or deemed made by the Participant under Article 4. Subject to the provisions of Section 9.6 requiring a six month delay for certain distributions to Key Employees, distributions following a payment event shall commence at the time specified in Section 6.01(a) of the Adoption Agreement. If permitted by Section 6.01(g) of the Adoption Agreement, a Participant may elect, at least twelve months before a scheduled distribution event, to delay the payment date for a minimum period of sixty months from the originally scheduled date of payment, provided the election does not take effect for at least twelve months from the date on which the election is made. The distribution election change must be made in accordance with procedures and rules established by the Administrator. The Participant may, at the same time the date of payment is deferred, change the form of payment but such change in the form of payment may not effect an acceleration of payment in violation of Code Section 409A or the provisions of Treas. Reg. § 1.409A-2(b). For purposes of this Section 9.2, a series of installment payments is always treated as a single payment and not as a series of separate payments.

### **9.3. Unforeseeable Emergency**

A Participant may request a distribution due to an Unforeseeable Emergency if the Plan Sponsor has elected to permit Unforeseeable Emergency withdrawals under Section 8.01(a) of the Adoption Agreement. The request must be in writing and must be submitted to the Administrator along with evidence that the circumstances constitute an Unforeseeable Emergency. The Administrator has the discretion to require whatever evidence it deems necessary to determine whether a distribution is warranted, and may require the Participant to certify that the need cannot be met from other sources reasonably available to the Participant. Whether a Participant has incurred an Unforeseeable Emergency will be determined by the Administrator on the basis of the relevant facts and circumstances in its sole discretion, but, in no event, will an Unforeseeable Emergency be deemed to exist if the hardship can be relieved: (a) through reimbursement or compensation by insurance or otherwise, (b) by liquidation of the Participant's assets to the extent such liquidation would not itself cause severe financial hardship, or (c) by cessation of deferrals under the Plan. A distribution due to an Unforeseeable Emergency must be limited to the amount reasonably necessary to satisfy the emergency need and may include any amounts necessary to pay any federal, state, foreign or local income taxes and penalties reasonably anticipated to result from the distribution. The distribution will be made in the form of a single lump sum cash payment. If permitted by Section 8.01(b) of the Adoption Agreement, a Participant's deferral elections for the remainder of the Plan Year will be cancelled upon a withdrawal due to an Unforeseeable Emergency. If the payment of all or any portion of the Participant's vested Account is being delayed in accordance with Section 9.6 at the time he experiences an Unforeseeable Emergency, the amount being delayed shall not be subject to the



provisions of this Section 9.3 until the expiration of the six month period of delay required by section 9.6.

#### **9.4 Payment Election Overrides**

If the Plan Sponsor has elected one or more payment election overrides in accordance with Section 6.01(d) of the Adoption Agreement, the following provisions apply. Upon the occurrence of the first event selected by the Plan Sponsor, the remaining vested amount credited to the Participant's Account shall be paid in the form designated to the Participant or his Beneficiary regardless of whether the Participant had made different elections of time and/or form of payment or whether the Participant was receiving installment payments at the time of the event.

#### **9.5. Cashouts of Amounts Not Exceeding Stated Limit**

If the vested amount credited to the Participant's Account does not exceed the limit established for this purpose by the Plan Sponsor in Section 6.01(e) of the Adoption Agreement at the time he incurs a Separation from Service for any reason, the Employer shall distribute such amount to the Participant at the time specified in Section 6.01(a) of the Adoption Agreement in a single lump sum cash payment following such Separation from Service regardless of whether the Participant had made different elections of time or form of payment as to the vested amount credited to his Account or whether the Participant was receiving installments at the time of such termination. A Participant's Account, for purposes of this Section 9.5, shall include any amounts described in Section 1.3.

#### **9.6. Required Delay in Payment to Key Employees**

Except as otherwise provided in this Section 9.6, a distribution made on account of Separation from Service (or Retirement, if applicable) to a Participant who is a Key Employee as of the date of his Separation from Service (or Retirement, if applicable) shall not be made before the date which is six months after the Separation from Service (or Retirement, if applicable).

- (a) A Participant is treated as a Key Employee if: (i) he is employed by a Related Employer any of whose stock is publicly traded on an established securities market, and (ii) he satisfies the requirements of Code Section 416(i)(1)(A)(i), (ii) or (iii), determined without regard to Code Section 416(i)(5), at any time during the twelve month period ending on the Identification Date.
- (b) A Participant who is a Key Employee on an Identification Date shall be treated as a Key Employee for purposes of the six month delay in distributions for the twelve month period beginning on the first day of a month no later than the fourth month following the Identification Date. The Identification Date and the effective date of the delay in distributions shall be determined in accordance with Section 1.06 of the Adoption Agreement.

- (c) The Plan Sponsor may elect to apply an alternative method to identify Participants who will be treated as Key Employees for purposes of the six month delay in distributions if the method satisfies each of the following requirements: (i) is reasonably designed to include all Key Employees, (ii) is an objectively determinable standard providing no direct or indirect election to any Participant regarding its application, and (iii) results in either all Key Employees or no more than 200 Key Employees being identified in the class as of any date. Use of an alternative method that satisfies the requirements of this Section 9.6(c) will not be treated as a change in the time and form of payment for purposes of Treas. Reg. § 1.409A-2(b).
- (d) The six month delay does not apply to payments described in Section 9.9(a), (b) or (d) or to payments that occur after the death of the Participant. If the payment of all or any portion of the Participant's vested Account is being delayed in accordance with this Section 9.6 at the time he incurs a Disability which would otherwise require a distribution under the terms of the Plan, no amount shall be paid until the expiration of the six month period of delay required by this Section 9.6.

### **9.7. Change in Control**

If the Plan Sponsor has elected to permit distributions upon a Change in Control, the following provisions shall apply. A distribution made upon a Change in Control will be made at the time specified in Section 6.01(a) of the Adoption Agreement in the form elected by the Participant in accordance with the procedures described in Article 4. Alternatively, if the Plan Sponsor has elected in accordance with Section 11.02 of the Adoption Agreement to require distributions upon a Change in Control, the Participant's remaining vested Account shall be paid to the Participant or the Participant's Beneficiary at the time specified in Section 6.01(a) of the Adoption Agreement as a single lump sum payment. A Change in Control, for purposes of the Plan, will occur upon a change in the ownership of the Plan Sponsor, a change in the effective control of the Plan Sponsor or a change in the ownership of a substantial portion of the assets of the Plan Sponsor, but only if elected by the Plan Sponsor in Section 11.03 of the Adoption Agreement. All distributions made in accordance with this Section 9.7 are subject to the provisions of Section 9.6.

If a Participant continues to make deferrals in accordance with Article 4 after he has received a distribution due to a Change in Control, the residual amount payable to the Participant shall be paid at the time and in the form specified in the elections he makes in accordance with Article 4 or upon his death or Disability as provided in Article 8.

Whether a Change in Control has occurred will be determined by the Administrator in accordance with the rules and definitions set forth in this Section 9.7. A distribution to the Participant will be treated as occurring upon a Change in Control if the Plan Sponsor terminates the Plan in accordance with Section 10.2 and distributes the Participant's benefits within twelve months of a Change in Control as provided in Section 10.3.

Stock Ownership. Code Section 318(a) applies for purposes of determining stock ownership. Stock underlying a vested option is considered owned by the individual who owns the vested option (and the stock underlying an unvested option is not considered owned by the individual who holds the unvested option). If, however, a vested option is exercisable for stock that is not substantially vested (as defined by Treas. Reg. § 1.83-3(b))

and (j)) the stock underlying the option is not treated as owned by the individual who holds the option.

**Definition of Change in Control.** For purposes of the Plan, a “Change in Control” shall mean any of the following events:

(a) The acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934 (the “Exchange Act”)) (a “Person”) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 30% or more of either (i) the then outstanding shares of common stock of the Plan Sponsor (the “Outstanding Plan Sponsor Common Stock”) or (ii) the combined voting power of the then outstanding voting securities of the Plan Sponsor entitled to vote generally in the election of directors (the “Outstanding Plan Sponsor Voting Securities”); provided, however, that for purposes of this Section 9.7(a), the following acquisitions shall not constitute a Change in Control: (A) any acquisition directly from the Plan Sponsor, (B) any acquisition by the Plan Sponsor, (C) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Plan Sponsor or any corporation controlled by the Plan Sponsor, or (D) any acquisition pursuant to a transaction which complies with Section 9.7(c)(i), Section 9.7(c)(ii) and Section 9.7(c)(iii) below; or

(b) Individuals who, as of the date of adoption of the Plan, constitute the Board of Directors of the Plan Sponsor (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board of Directors of the Plan Sponsor (the “Board”); provided, however, that any individual becoming a director subsequent to the date of adoption of the Plan whose election, or nomination for election by the Plan Sponsor’s stockholders, was approved by a vote of at least two-thirds of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) Consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Plan Sponsor or the acquisition of assets of another entity (a “Corporate Transaction”), in each case, unless, following such Corporate Transaction, (i) all or substantially all of the individuals and entities who were the beneficial owners, respectively, of the Outstanding Plan Sponsor Common Stock and Outstanding Plan Sponsor Voting Securities immediately prior to such Corporate Transaction beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Corporate Transaction (including a corporation which as a result of such transaction owns the Plan Sponsor or all or substantially all of the Plan Sponsor’s assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership, immediately prior to such Corporate Transaction of the Outstanding Plan Sponsor Common Stock and Outstanding Plan Sponsor Voting Securities, as the case may be; (ii) no Person

(excluding any employee benefit plan (or related trust) of the Plan Sponsor or such corporation resulting from such Corporate Transaction) beneficially owns, directly or indirectly, 30% or more of, respectively, the then outstanding shares of common stock of the corporation resulting from such Corporate Transaction or the combined voting power of the then outstanding voting securities of such corporation except to the extent that such ownership existed prior to the Corporate Transaction; and (iii) at least a majority of the members of the board of directors of the corporation resulting from such Corporate Transaction were members of the Incumbent Board at the time of the execution of the initial agreement, or of the action of the Board, providing for such Corporate Transaction.

Notwithstanding anything in this Section 9.7 to the contrary, an event described in this Section shall not constitute a Change in Control unless it also constitutes a “change in the ownership or effective control” of the Plan Sponsor or a change “in the ownership of a substantial portion of the assets” of the Plan Sponsor, in each case determined under Internal Revenue Code Section 409A.

#### **9.8. Permissible Delays in Payment**

Distributions may be delayed beyond the date payment would otherwise occur in accordance with the provisions of Articles 8 and 9 in any of the following circumstances (as long as the Employer treats all payments to similarly situated Participants on a reasonably consistent basis):

- (a) The Employer may delay payment if it reasonably anticipates that its deduction with respect to such payment would be limited or eliminated by the application of Code Section 162(m). Payment must be made during the Participant’s first taxable year in which the Employer reasonably anticipates, or should reasonably anticipate, that if the payment is made during such year the deduction of such payment will not be barred by the application of Code Section 162(m) or during the period beginning with the Participant’s Separation from Service and ending on the later of the last day of the Employer’s taxable year in which the Participant separates from service or the 15<sup>th</sup> day of the third month following the Participant’s Separation from Service. If a scheduled payment to a Participant is delayed in accordance with this Section 9.8(a), all scheduled payments to the Participant that could be delayed in accordance with this Section 9.8(a) will also be delayed.
- (b) The Employer may also delay payment if it reasonably anticipates that the making of the payment will violate federal securities laws or other applicable laws provided payment is made at the earliest date on which the Employer reasonably anticipates that the making of the payment will not cause such violation.
- (c) The Employer reserves the right to amend the Plan to provide for a delay in payment upon such other events and conditions as the Secretary of the Treasury may prescribe in generally applicable guidance published in the Internal Revenue Bulletin.

#### **9.9. Permitted Acceleration of Payment**

The Employer may permit acceleration of the time or schedule of any payment or amount scheduled to be paid pursuant to a payment under the Plan provided such acceleration

would be permitted by the provisions of Treas. Reg. § 1.409A-3(j)(4), including the following events:

- (a) Domestic Relations Order. A payment may be accelerated if such payment is made to an alternate payee pursuant to and following the receipt and qualification of a domestic relations order as defined in Code Section 414(p).
- (b) Compliance with Ethics Agreement and Legal Requirements. A payment may be accelerated as may be necessary to comply with ethics agreements with the Federal government or as may be reasonably necessary to avoid the violation of Federal, state, local or foreign ethics law or conflicts of laws, in accordance with the requirements of Code Section 409A.
- (c) De Minimis Amounts. A payment will be accelerated if (i) the amount of the payment is not greater than the applicable dollar amount under Code Section 402(g)(1)(B), (ii) at the time the payment is made the amount constitutes the Participant's entire interest under the Plan and all other plans that are aggregated with the Plan under Treas. Reg. § 1.409A-1(c)(2).
- (d) FICA Tax. A payment may be accelerated to the extent required to pay the Federal Insurance Contributions Act tax imposed under Code Sections 3101, 3121(a) and 3121(v)(2) of the Code with respect to compensation deferred under the Plan (the "FICA Amount"). Additionally, a payment may be accelerated to pay the income tax on wages imposed under Code Section 3401 of the Code on the FICA Amount and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes. The total payment under this subsection (d) may not exceed the aggregate of the FICA Amount and the income tax withholding related to the FICA Amount.
- (e) Section 409A Additional Tax. A payment may be accelerated if the Plan fails to meet the requirements of Code Section 409A; provided that such payment may not exceed the amount required to be included in income as a result of the failure to comply with the requirements of Code Section 409A.
- (f) Offset. A payment may be accelerated in the Employer's discretion as satisfaction of a debt of the Participant to the Employer, where such debt is incurred in the ordinary course of the service relationship between the Participant and the Employer, the entire amount of the reduction in any of the Employer's taxable years does not exceed \$5,000, and the reduction is made at the same time and in the same amount as the debt otherwise would have been due and collected from the Participant.
- (g) Other Events. A payment may be accelerated in the Administrator's discretion in connection with such other events and conditions as permitted by Code Section 409A.

## **Article 10 - Amendment and Termination**

### **10.1. Amendment by Plan Sponsor**

The Plan Sponsor reserves the right to amend the Plan (for itself and each Employer) through action of its Board of Directors. No amendment can directly or indirectly deprive any current or former Participant or Beneficiary of all or any portion of his Account which had accrued and vested prior to the amendment.

### **10.2. Plan Termination Following Change in Control or Corporate Dissolution**

If so elected by the Plan Sponsor in 11.01 of the Adoption Agreement, the Plan Sponsor reserves the right to terminate the Plan and distribute all amounts credited to all Participant Accounts within the 30 days preceding or the twelve months following a Change in Control as determined in accordance with the rules set forth in Section 9.7. For this purpose, the Plan will be treated as terminated only if all agreements, methods, programs and other arrangements sponsored by the Related Employer immediately after the Change in Control which are treated as a single plan under Treas. Reg. § 1.409A-1(c)(2) are also terminated so that all Participants under the Plan and all similar arrangements are required to receive all amounts deferred under the terminated arrangements within twelve months of the date the Plan Sponsor irrevocably takes all necessary action to terminate the arrangements. In addition, the Plan Sponsor reserves the right to terminate the Plan within twelve months of a corporate dissolution taxed under Code Section 331 or with the approval of a bankruptcy court pursuant to 11 U. S. C. Section 503(b)(1)(A) provided that amounts deferred under the Plan are included in the gross incomes of Participants in the latest of (a) the calendar year in which the termination and liquidation occurs, (b) the first calendar year in which the amount is no longer subject to a substantial risk of forfeiture, or (c) the first calendar year in which payment is administratively practicable.

### **10.3. Other Plan Terminations**

The Plan Sponsor retains the discretion to terminate the Plan if (a) all arrangements sponsored by the Plan Sponsor that would be aggregated with any terminated arrangement under Code Section 409A and Treas. Reg. § 1.409A-1(c)(2) are terminated, (b) no payments other than payments that would be payable under the terms of the arrangements if the termination had not occurred are made within twelve months of the termination of the arrangements, (c) all payments are made within twenty-four months of the date the Plan Sponsor takes all necessary action to irrevocably terminate and liquidate the arrangements, (d) the Plan Sponsor does not adopt a new arrangement that would be aggregated with any terminated arrangement under Code Section 409A and the regulations thereunder at any time within the three year period following the date of termination of the arrangement, and (e) the termination does not occur proximate to a downturn in the financial health of the Plan Sponsor. The Plan Sponsor also reserves the right to amend the Plan to provide that termination of the Plan will occur under such conditions and events as may be prescribed by the Secretary of the Treasury in generally applicable guidance published in the Internal Revenue Bulletin.

## ***Article 11 - The Trust***

### **11.1. Establishment of Trust**

The Plan Sponsor may but is not required to establish a trust to hold amounts which the Plan Sponsor may contribute from time to time to correspond to some or all amounts credited to Participants under Section 6.2. In the event that the Plan Sponsor wishes to establish a trust to provide a source of funds for the payment of Plan benefits, any such trust shall be constructed to constitute an unfunded arrangement that does not affect the status of the Plan as an unfunded plan for purposes of Title I of ERISA and the Code. If the Plan Sponsor elects to establish a trust in accordance with Section 10.01 of the Adoption Agreement, the provisions of Sections 11.2 and 11.3 shall become operative.

### **11.2. Rabbi Trust**

Any trust established by the Plan Sponsor shall be between the Plan Sponsor and a trustee pursuant to a separate written agreement under which assets are held, administered and managed, subject to the claims of the Plan Sponsor's creditors in the event of the Plan Sponsor's insolvency. The trust is intended to be treated as a rabbi trust in accordance with existing guidance of the Internal Revenue Service, and the establishment of the trust shall not cause the Participant to realize current income on amounts contributed thereto. The Plan Sponsor must notify the trustee in the event of a bankruptcy or insolvency.

### **11.3. Investment of Trust Funds**

Any amounts contributed to the trust by the Plan Sponsor shall be invested by the trustee in accordance with the provisions of the trust and the instructions of the Administrator. Trust investments need not reflect the hypothetical investments selected by Participants under Section 7.1 for the purpose of adjusting Accounts and the earnings or investment results of the trust need not affect the hypothetical investment adjustments to Participant Accounts under the Plan.

## **Article 12 - Plan Administration**

### **12.1. Powers and Responsibilities of the Administrator**

The Administrator has the full power and the full responsibility to administer the Plan in all of its details; subject, however, to the applicable requirements of ERISA. The Administrator's powers and responsibilities include, but are not limited to, the following:

- (a) To make and enforce such rules and procedures as it deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, its interpretation thereof to be final, except as provided in Section 12.2, on all persons claiming benefits under the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- (d) To administer the claims and review procedures specified in Section 12.2;
- (e) To compute the amount of benefits which will be payable to any Participant, former Participant or Beneficiary in accordance with the provisions of the Plan;
- (f) To determine the person or persons to whom such benefits will be paid;
- (g) To authorize the payment of benefits;
- (h) To comply with the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA;
- (i) To appoint such agents, counsel, accountants, and consultants as may be required to assist in administering the Plan;
- (j) By written instrument, to allocate and delegate its responsibilities, including the formation of an Administrative Committee to administer the Plan.

### **12.2 Claims and Review Procedures**



- (a) Claims Procedure. If any person believes he is being denied any rights or benefits under the Plan, such person may file a claim in writing with the Administrator. If any such claim is wholly or partially denied, the Administrator will notify such person of its decision in writing. Such notification will contain (i) specific reasons for the denial, (ii) specific reference to pertinent Plan provisions, (iii) a description of any additional material or information necessary for such person to perfect such claim and an explanation of why such material or information is necessary, and (iv) a description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the person's right to bring a civil action following an adverse decision on review. If the claim involves a Disability, the denial must also include the standards that governed the decision, including the basis for disagreeing with any health care professionals, vocational professionals or the Social Security Administration as well as an explanation of the scientific or clinical judgement underlying the denial. Such notification will be given within 90 days (45 days in the case of a claim regarding Disability) after the claim is received by the Administrator. The Administrator may extend the period for providing the notification by 90 days (30 days in the case of a claim regarding Disability, which may be extended an additional 30 days) if special circumstances require an extension of time for processing the claim and if written notice of such extension and circumstance is given to such person within the initial 90 day period (45 day period in the case of a claim regarding Disability). If such notification is not given within such period, the claim will be considered denied as of the last day of such period and such person may request a review of his claim.
- (b) Review Procedure. Within 60 days (180 days in the case of a claim regarding Disability) after the date on which a person receives a written notification of denial of claim (or, if written notification is not provided, within 60 days (180 days in the case of a claim regarding Disability) of the date denial is considered to have occurred), such person (or his duly authorized representative) may (i) file a written request with the Administrator for a review of his denied claim and of pertinent documents and (ii) submit written issues and comments to the Administrator. The Administrator will notify such person of its decision in writing. Such notification will be written in a manner calculated to be understood by such person and will contain specific reasons for the decision as well as specific references to pertinent Plan provisions. The notification will explain that the person is entitled to receive, upon request and free of charge, reasonable access to and copies of all pertinent documents and has the right to bring a civil action following an adverse decision on review. The decision on review will be made within 60 days (45 days in the case of a claim regarding Disability). The Administrator may extend the period for making the decision on review by 60 days (45 days in the case of a claim regarding Disability) if special circumstances require an extension of time for processing the request such as an election by the Administrator to hold a hearing, and if written notice of such extension and circumstances is given to such person within the initial 60-day period (45 days in the case of a claim regarding Disability). If the decision on review is not made within such period, the claim will be considered denied.

If the claim is regarding Disability, and the determination of Disability has not been made by the Social Security Administration or the Railroad Retirement Board, the person may, upon written request and free of charge, also receive the identification of medical or vocational experts whose advice was obtained in connection with the denial of a claim regarding Disability, even if the advice was not relied upon.

Before issuing any decision with respect to a claim involving Disability, the Administrator will provide to the person, free of charge, the following information as soon as possible and sufficiently in advance of the date on which the response is required to be provided to the person to allow the person a reasonable opportunity to respond prior to the due date of the response:

- (i) Any new or additional evidence considered, relied upon, or generated by the Administrator or other person making the decision; and
  - (ii) A new or addition rationale if the decision will be based on that rationale.
- (c) Exhaustion of Claims Procedures and Right to Bring Legal Claim. No action at law or equity shall be brought more than one year after the Administrator's affirmation of a denial of a claim, or, if earlier, more than four years after the facts or events giving rising to the claimant's allegation(s) or claim(s) first occurred.

### **12.3. Plan Administrative Costs**

All reasonable costs and expenses (including legal, accounting, and employee communication fees) incurred by the Administrator in administering the Plan shall be paid by the Plan to the extent not paid by the Employer.

## **Article 13 - Miscellaneous**

### **13.1. Unsecured General Creditor of the Employer**

Participants and their Beneficiaries, heirs, successors and assigns shall have no legal or equitable rights, interests or claims in any property or assets of the Employer. For purposes of the payment of benefits under the Plan, any and all of the Employer's assets shall be, and shall remain, the general, unpledged, unrestricted assets of the Employer. Each Employer's obligation under the Plan shall be merely that of an unfunded and unsecured promise to pay money in the future.

### **13.2. Employer's Liability**

Each Employer's liability for the payment of benefits under the Plan shall be defined only by the Plan and by the deferral agreements entered into between a Participant and the Employer. An Employer shall have no obligation or liability to a Participant under the Plan except as provided by the Plan and a deferral agreement or agreements. An Employer shall have no liability to Participants employed by other Employers.

### **13.3. Limitation of Rights**

Neither the establishment of the Plan, nor any amendment thereof, nor the creation of any fund or account, nor the payment of any benefits, will be construed as giving to the Participant or any other person any legal or equitable right against the Employer, the Plan or the Administrator, except as provided herein; and in no event will the terms of employment or service of the Participant be modified or in any way affected hereby.

### **13.4. Anti-Assignment**

Except as may be necessary to fulfill a domestic relations order within the meaning of Code Section 414(p), none of the benefits or rights of a Participant or any Beneficiary of a Participant shall be subject to the claim of any creditor. In particular, to the fullest extent permitted by law, all such benefits and rights shall be free from attachment, garnishment, or any other legal or equitable process available to any creditor of the Participant and his Beneficiary. Neither the Participant nor his Beneficiary shall have the right to alienate, anticipate, commute, pledge, encumber, or assign any of the payments which he may expect to receive, contingently or otherwise, under the Plan, except the right to designate a Beneficiary to receive death benefits provided hereunder. Notwithstanding the preceding, the benefit payable from a Participant's Account may be reduced, at the discretion of the Administrator, to satisfy any debt or liability to the Employer.

### **13.5. Facility of Payment**

If the Administrator determines, on the basis of medical reports or other evidence satisfactory to the Administrator, that the recipient of any benefit payments under the Plan is incapable of handling his affairs by reason of minority, illness, infirmity or other incapacity, the Administrator may direct the Employer to disburse such payments to a person or institution designated by a court which has jurisdiction over such recipient or a person or institution otherwise having the legal authority under State law for the care and control of such recipient. The receipt by such person or institution of any such payments therefore, and any such payment to the extent thereof, shall discharge the liability of the Employer, the Plan and the Administrator for the payment of benefits hereunder to such recipient.

### **13.6. Notices**

Any notice or other communication to the Employer or Administrator in connection with the Plan shall be deemed delivered in writing if addressed to the Plan Sponsor at the address specified in Section 1.03 of the Adoption Agreement and if either actually delivered at said address or, in the case of a letter, five business days shall have elapsed after the same shall have been deposited in the United States mails, first-class postage prepaid and registered or certified.

### **13.7. Tax Withholding**

If the Employer concludes that tax is owing with respect to any deferral or payment hereunder, the Employer shall withhold such amounts from any payments due the Participant or from amounts deferred, as permitted by law, or otherwise make appropriate arrangements with the Participant or his Beneficiary for satisfaction of such obligation. Tax, for purposes of this Section 13.7 means any federal, state, local or any other governmental income tax, employment or payroll tax, excise tax, or any other tax or assessment owing with respect to amounts deferred, any earnings thereon, and any payments made to Participants under the Plan.

### **13.8. Indemnification**

- (a) Each Indemnitee (as defined in Section 13.8(e)) shall be indemnified and held harmless by the Employer for all actions taken by him and for all failures to take action (regardless of the date of any such action or failure to take action), to the fullest extent permitted by the law of the jurisdiction in which the Employer is incorporated, against all expense, liability, and loss (including, without limitation, attorneys' fees, judgments, fines, taxes, penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by the Indemnitee in connection with any Proceeding (as defined in subsection (e)). No indemnification pursuant to this Section shall be made, however, in any case where (1) the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness or (2) there is a settlement to which the Employer does not consent.
- (b) The right to indemnification provided in this Section shall include the right to have the expenses incurred by the Indemnitee in defending any Proceeding paid by the Employer in advance of the final disposition of the Proceeding, to the fullest extent permitted by the law of the jurisdiction in which the Employer is incorporated; provided that, if such law requires, the payment of such expenses incurred by the Indemnitee in advance of the final disposition of a Proceeding shall be made only on delivery to the Employer of an undertaking, by or on behalf of the Indemnitee, to repay all amounts so advanced without interest if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified under this Section or otherwise.
- (c) Indemnification pursuant to this Section shall continue as to an Indemnitee who has ceased to be such and shall inure to the benefit of his heirs, executors, and administrators. The Employer agrees that the undertakings made in this Section shall be binding on its successors or assigns and shall survive the termination, amendment or restatement of the Plan.
- (d) The foregoing right to indemnification shall be in addition to such other rights as the Indemnitee may enjoy as a matter of law or by reason of insurance coverage of any kind and is in addition to and not in lieu of any rights to indemnification to which the Indemnitee may be entitled pursuant to the by-laws of the Employer.
- (e) For the purposes of this Section, the following definitions shall apply:
  - (i) "Indemnitee" shall mean each person serving as an Administrator (or any other person who is an employee, Director, or officer of the Employer) who was or is a party to, or is threatened to be made a party to, or is otherwise involved in, any Proceeding, by reason of the fact that he is or was performing administrative functions under the Plan.
  - (ii) "Proceeding" shall mean any threatened, pending, or completed action, suit, or proceeding (including, without limitation, an action, suit, or proceeding by or in the right of the Employer), whether civil, criminal, administrative, investigative, or through arbitration.

### **13.9. Successors**

The provisions of the Plan shall bind and inure to the benefit of the Plan Sponsor, the Employer and their successors and assigns and the Participant and the Participant's designated Beneficiaries.

**13.10. Disclaimer**

It is the Plan Sponsor's intention that the Plan comply with the requirements of Code Section 409A. Neither the Plan Sponsor nor the Employer shall have any liability to any Participant should any provision of the Plan fail to satisfy the requirements of Code Section 409A.

**13.11. Governing Law**

The Plan will be construed, administered and enforced according to the laws of the State specified by the Plan Sponsor in Section 12.01 of the Adoption Agreement.

**NCR Corporation Deferred Compensation Plan  
Adoption Agreement**



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# Adoption Agreement

## 1.01 Preamble

By the execution of this Adoption Agreement the Plan Sponsor hereby [complete (a) or (b)]

- (a)  adopts a new plan as of January 1, 2021
- (b)  amends and restates its existing plan as of [month, day, year] which is the Amendment Restatement Date. Except as otherwise provided in Appendix A, all amounts deferred under the Plan prior to the Amendment Restatement Date shall be governed by the terms of the Plan as in effect on the day before the Amendment Restatement Date.

Original Effective Date: [month, day, year]

Pre-409A Grandfathering:  Yes  No

## 1.02 Plan

Plan Name: NCR Corporation Deferred Compensation Plan

Plan Year: Calendar

## 1.03 Plan Sponsor

Name: NCR Corporation

Address: 864 Spring Street NW, Atlanta, GA 30308

Phone #: 678-808-5403

EIN #: 31-0387920

Fiscal Year: Calendar

Is stock of the Plan Sponsor, any Employer or any Related Employer publicly traded on an established securities market?  Yes  No

### 1.04 Employer

The following entities have been authorized by the Plan Sponsor to participate in the Plan [insert "Not Applicable" if none have been authorized]:

Entity	Publicly Traded on Est. Securities Market	
	Yes	No
NCR Corporation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JetPay HR & Payroll Services, Inc.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JetPay Payment Services, FL, LLC	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JetPay Payment Services, PA, LLC	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JetPay Payment Services, TX, LLC	<input type="checkbox"/>	<input checked="" type="checkbox"/>
StopLift, Inc.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other entities as determined by the Plan Administrator	<input type="checkbox"/>	<input type="checkbox"/>

### 1.05 Administrator

The Plan Sponsor has designated the following party or parties to be responsible for the administration of the Plan:

Name: Chief Human Resources Officer-NCR Corporation

Address: 864 Spring Street NW, Atlanta, GA 30308

Note: The Administrator is the person or persons designated by the Plan Sponsor to be responsible for the administration of the Plan. Neither Fidelity Employer Services Company nor any other Fidelity affiliate can be the Administrator.

### 1.06 Key Employee Determination Dates

The Employer has designated [month, day, year] as the Identification Date for purposes of determining Key Employees.

In the absence of a designation, the Identification Date is December 31.

The Employer has designated [month, day, year] as the effective date for purposes of applying the six month delay in distributions to Key Employees.

In the absence of a designation, the effective date is the first day of the fourth month following the Identification Date.



## 2.01 Participation

(a)  Employees [complete (i), (ii) or (iii)]

(i)  Eligible Employees are selected by the Employer.

(ii)  Eligible Employees are those employees of the Employer who satisfy the following criteria:

Salary grade 18 or E3 and above, and as selected by the Plan Administrator

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(iii)  Employees are not eligible to participate.

(b)  Directors [complete (i), (ii) or (iii)]

(i)  All Directors are eligible to participate.

(ii)  Only Directors selected by the Employer are eligible to participate.

(iii)  Directors are not eligible to participate.

### 3.01 Compensation

For purposes of determining Participant contributions under Article 4 and Employer contributions under Article 5, Compensation shall be defined in the following manner [complete (a) or (b) and select (c) and/or (d), if applicable]:

- (a)  Compensation is defined as:

Base Compensation

---

NCR Corporation Management Incentive Plan (MIP) Payments (to the extent determined by the Plan Administrator)

---

NCR Corporation Success Share Incentive Plan (SSP) Payments

---

Such other Compensation as determined by the Plan Administrator from time to time

---

Restricted Stock Units (RSU)

---

- (b)  Compensation as defined in [insert name of qualified plan] without regard to the limitation in Section 401(a)(17) of the Code for such Plan Year.
- (c)  Director Compensation is defined as:
- 
- 
- 

- (d)  Compensation shall, for all Plan purposes, be limited to \$.
- (e)  Not Applicable.

### 3.02 Bonuses

Compensation, as defined in Section 3.01 of the Adoption Agreement, includes the following type of bonuses that will be the subject of a separate deferral election:

Type	[Will be treated as]	
	<u>Performance Based Compensation</u>	
	Yes	No
MIP (to the extent determined by the Plan Administrator)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SSIP	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>

Not Applicable.

## 4.01 Participant Contributions

If Participant contributions are permitted, complete (a), (b), and (c). Otherwise complete (d).

### (a) Amount of Deferrals

A Participant may elect within the period specified in Section 4.01(b) of the Adoption Agreement to defer the following amounts of remuneration. For each type of remuneration listed, complete “dollar amount” and/or “percentage amount”.

#### (i) Compensation other than Bonuses [do not complete if you complete (iii)]

Type of Remuneration	Dollar Amount		% Amount		Increment
	Min	Max	Min	Max	
Base Compensation			5%	50%	1%
Other Compensation as determined			5%	75%	1%
RSUs			5%	100%	1%

Note: The increment is required to determine the permissible deferral amounts. For example, a minimum of 0% and maximum of 20% with a 5% increment would allow an individual to defer 0%, 5%, 10%, 15% or 20%.

#### (ii) Bonuses [do not complete if you complete (iii)]

Type of Bonus	Dollar Amount		% Amount		Increment
	Min	Max	Min	Max	
MIP			5%	75%	1%
SSP			5%	75%	1%
			%	%	%

#### (iii) Compensation [do not complete if you completed (i) and (ii)]

Dollar Amount		% Amount		Increment
Min	Max	Min	Max	
		%	%	%

(iv) Director Compensation

Type of Compensation	Dollar Amount		% Amount		Increment
	Min	Max	Min	Max	
Annual Retainer			%	%	%
Meeting Fees Other:			%	%	%
Other:			%	%	%
Other:			%	%	%

(b) **Election Period**

(i) Performance Based Compensation

A special election period

- Does
- Does Not

apply to each eligible type of performance based compensation referenced in Section 3.02 of the Adoption Agreement.

The special election period, if applicable, will be determined by the Employer.

(ii) Newly Eligible Participants

An employee who is classified or designated as an Eligible Employee during a Plan Year

- May
- May Not

elect to defer Compensation earned during the remainder of the Plan Year by completing a deferral agreement within the 30 day period beginning on the date he is eligible to participate in the Plan.

The special election period, if applicable, will be determined by the Employer.



(c) **Revocation of Deferral Agreement**

A Participant's deferral agreement

- Will
- Will Not

be cancelled for the remainder of any Plan Year during which he receives a hardship distribution of elective deferrals from a qualified cash or deferred arrangement maintained by the Employer to the extent necessary to satisfy the requirements of Reg. Sec. 1.401(k)-1(d)(3). If cancellation occurs, the Participant may resume participation in accordance with Article 4 of the Plan.

(d) **No Participant Contributions**

- Participant contributions are not permitted under the Plan.

## 5.01 Employer Contributions

If Employer contributions are permitted, complete (a) and/or (b). Otherwise complete (c).

### (a) Matching Contributions

#### (i) Amount

For each Plan Year, the Employer shall make a matching contribution on behalf of each Participant who defers Compensation for the Plan Year and satisfies the requirements of Section 5.01(a)(ii) of the Adoption Agreement equal to [complete the ones that are applicable]:

- (A)  [insert percentage]% of the Compensation the Participant has elected to defer for the Plan Year
  - (B)  An amount determined by the Employer in its sole discretion
  - (C)  Matching contributions for each Participant shall be limited to \$ and/or [insert percentage]% of Compensation
  - (D)  Other:
- 
- 

- (E)  Not Applicable [Proceed to Section 5.01(b)]

#### (ii) Eligibility for matching contribution

A Participant who defers Compensation for the Plan Year shall receive an allocation of matching contributions determined in accordance with Section 5.01(a)(i) provided he satisfies the following requirements [complete the ones that are applicable]:

- (A)  Describe requirements:
- 
-

(B)  Is selected by the Employer in its sole discretion to receive an allocation of matching contributions

(C)  No requirements

(iii) Time of Allocation

Matching contributions, if made, shall be treated as allocated [select one]:

(A)  As of the last day of the Plan Year

(B)  At such times as the Employer shall determine in its sole discretion

(C)  At the time the Compensation on account of which the matching contribution is being made would otherwise have been paid to the Participant

(D)  Other:

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(b) **Other Contributions**

(i)  Amount

The Employer shall make a contribution on behalf of each Participant who satisfies the requirements of Section 5.01(b)(ii) equal to [complete the ones that are applicable]:

(A)  An amount equal to [insert percentage]% of the Participant's Compensation

(B)  An amount determined by the Employer in its sole discretion

(C)  Contributions for each Participant shall be limited to \$

(D)  Other:

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(E)  Not Applicable [Proceed to Section 6.01]

(ii) Eligibility for Other Contribution

A Participant shall receive an allocation of other Employer contributions determined in accordance with Section 5.01(b)(i) for the Plan Year if he satisfies the following requirements [complete the one that is applicable]:

(A)  Describe requirements:

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(B)  Is selected by the Employer in its sole discretion to receive an allocation of other Employer contributions

(C)  No requirements

(iii) Time of Allocation

Employer contributions, if made, shall be treated as allocated [select one]:

(A)  As of the last day of the Plan Year

(B)  At such times or times as the Employer shall determine in its sole discretion

(C)  Other:

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---

(c) **No Employer Contributions**

Employer contributions are not permitted under the Plan.

## 6.01 Distributions

The timing and form of payment of distributions made from the Participant's vested Account shall be made in accordance with the elections made in this Section 6.01 of the Adoption Agreement except when Section 9.6 of the Plan requires a six month delay for certain distributions to Key Employees of publicly traded companies.

### (a) Timing of Distributions

(i) All distributions shall commence in accordance with the following [choose one]:

- (A)  As soon as administratively feasible following the distribution event but in no event later than the time prescribed by Treas. Reg. Sec. 1.409A-3(d).
- (B)  Monthly on specified day [insert day]
- (C)  Annually on specified month and day [insert month and day]
- (D)  Calendar quarter on specified month and day [insert month and day] Q[insert numerical quarter 1, 2, 3, or 4]

(ii) The timing of distributions as determined in Section 6.01(a)(i) shall be modified by the adoption of:

- (A)  Event Delay – Distribution events other than those based on Specified Date or Specified Age will be treated as not having occurred for \_\_\_\_\_ months
  - (B)  Hold Until Next Year – Distribution events other than those based on Specified Date or Specified Age will be treated as not having occurred for twelve months from the date of the event if payment pursuant to Section 6.01(a)(i) will thereby occur in the next calendar year or on the first payment date in the next calendar year in all other cases
  - (C)  Immediate Processing – The timing method selected by the Plan Sponsor under Section 6.01(a)(i) shall be overridden for the following distribution events [insert events]:
- 
-

(D)  Not applicable

(b) **Distribution Events**

Participants may elect the following payment events and the associated form or forms of payment. If multiple events are selected, the earliest to occur will trigger payment. For installments, insert the range of available periods (e.g., 5-15) or insert the periods available (e.g., 5, 7, 9).

	<u>Lump Sum</u>	<u>Installments</u>
(i) <input checked="" type="checkbox"/> Specified Date	<input checked="" type="checkbox"/>	___ years
(ii) <input type="checkbox"/> Specified Age	<input type="checkbox"/>	___ years
(iii) <input type="checkbox"/> Separation from Service	<input type="checkbox"/>	___ years
(iv) <input checked="" type="checkbox"/> Separation from Service plus 6 months	<input checked="" type="checkbox"/>	<u>5, 10, 15</u> years
(v) <input type="checkbox"/> Separation from Service plus ___ months [not to exceed ___ months]	<input type="checkbox"/>	___ years
(vi) <input type="checkbox"/> Retirement	<input type="checkbox"/>	___ years
(vii) <input type="checkbox"/> Retirement plus 6 months	<input type="checkbox"/>	___ years
(viii) <input type="checkbox"/> Retirement plus ___ months	<input type="checkbox"/>	___ years
(ix) <input type="checkbox"/> Disability	<input type="checkbox"/>	___ years
(x) <input type="checkbox"/> Death	<input type="checkbox"/>	___ years
(xi) <input type="checkbox"/> Change in Control	<input type="checkbox"/>	___ years

The minimum deferral period for Specified Date or Specified Age event shall be 2 years except that for amounts deferred as a Restricted Stock Unit under Section 4.01(a)(i) the minimum deferral period shall be 4 years.

Installments may be paid [select each that applies]

- Monthly
- Quarterly



Annually

(c) Specified Date and Specified Age elections may not extend beyond age [insert age or "Not Applicable" if no maximum age applies].

(d) **Payment Election Override**

Payment of the remaining vested balance of the Participant's Account will automatically occur at the time specified in Section 6.01(a) of the Adoption Agreement in the form indicated upon the earliest to occur of the following events [check each event that applies and for each event include only a single form of payment]:

<u>Events</u>	<u>Form of Payment</u>	
	<u>Lump Sum</u>	<u>Installments</u>
<input type="checkbox"/> Separation from Service	<input type="checkbox"/>	_____
<input type="checkbox"/> Separation from Service before Retirement	<input type="checkbox"/>	_____
<input checked="" type="checkbox"/> Death	<input checked="" type="checkbox"/>	_____
<input checked="" type="checkbox"/> Disability	<input checked="" type="checkbox"/>	_____
<input type="checkbox"/> Not Applicable	<input type="checkbox"/>	_____

(e) **Involuntary Cashouts**

If the Participant's vested Account at the time of his Separation from Service does not exceed \$50,000, distribution of the vested Account shall automatically be made in the form of a single lump sum in accordance with Section 9.5 of the Plan.

There are no involuntary cashouts.

(f) **Retirement**

Retirement shall be defined as a Separation from Service that occurs on or after the Participant [insert description of requirements]:

---

No special definition of Retirement applies.

(g) **Distribution Election Change**

A Participant

Shall

Shall Not

be permitted to modify a scheduled distribution date and/or payment option in accordance with Section 9.2 of the Plan.

A Participant shall generally be permitted to elect such modification unlimited number of times.

Administratively, allowable distribution events will be modified to reflect all options necessary to fulfill the distribution change election provision.

(h) **Frequency of Elections**

The Plan Sponsor

Has

Has Not

elected to permit annual elections of a time and form of payment for amounts deferred under the Plan. If a single election of a time and/or form of payment is required, the Participant will make such election at the time he first completes a deferral agreement which, in all cases, will be no later than the time required by Reg. Sec. 1.409A-2.

(i) **Disability**

For Purposes of Section 2.11 of the Plan, Disability shall be defined as

- Total disability as determined by the Social Security Administration or the Railroad Retirement Board.
  - As determined by the Employer's long term disability insurance policy.
  - As follows [insert description of requirements]:
- 
- 

- Not applicable.

**7.01 Vesting**

(a) **Matching Contributions**

The Participant's vested interest in the amount credited to his Account attributable to matching contributions shall be based on the following schedule:

<input type="checkbox"/> <u>Years of Service</u>	<u>Vesting %</u>	
0	__%	[insert "100" if there is immediate vesting]
1	__%	
2	___%	
3	___%	
4	___%	
5	____%	
6	___%	
7	_____%	
8	___%	
9	_____%	

Other:

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---

Class year vesting applies:

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Not applicable.

**(b) Other Employer Contributions**

The Participant's vested interest in the amount credited to his Account attributable to Employer contributions other than matching contributions shall be based on the following schedule:

<input type="checkbox"/> <u>Years of Service</u>	<u>Vesting %</u>	
0	__%	[insert "100" if there is immediate vesting]
1	__%	
2	__%	
3	__%	
4	__%	
5	__%	
6	__%	
7	__%	
8	__%	
9	__%	

Other:

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Class year vesting applies:

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Not applicable.

(c) **Acceleration of Vesting**

The Participant's vested interest in his Account will automatically be 100% upon the occurrence of the following events [select the ones that are applicable]:

(i)  Death.

- (ii)  Disability.
- (iii)  Change in Control.
- (iv)  Eligibility for Retirement.
- (v)  Other:

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- (vi)  Not applicable.

(d) **Years of Service**

- (i) A Participant's Years of Service shall include all service performed for the Employer and

- Shall
- Shall Not

include service performed for the Related Employer.

- (ii) Years of Service shall also include service performed for the following entities:

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- (iii) Years of Service shall be determined in accordance with [select one]:

- (A)  The elapsed time method in Treas. Reg. Sec. 1.410(a)-7
- (B)  The general method in DOL Reg. Sec. 2530.200b-1 through b-4
- (C)  Participant's Years of Service credited under:

[insert name of plan] \_\_\_\_\_

(D)  Other:

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(iv)  Not applicable.

## **8.01 Unforeseeable Emergency**

(a) A withdrawal due to an Unforeseeable Emergency as defined in Section 2.24:

Will

Will Not [if Unforeseeable Emergency withdrawals are not permitted, proceed to Section 9.01]

be allowed.

(b) Upon a withdrawal due to an Unforeseeable Emergency, a Participant's deferral election for the remainder of the Plan Year:

Will

Will Not

be cancelled. If cancellation occurs, the Participant may resume participation in accordance with Article 4 of the Plan.



### **9.01 Investment Decisions**

Investment decisions regarding the hypothetical amounts credited to a Participant's Account shall be made by [select one]:

- (a)  The Participant or his Beneficiary
- (b)  The Employer

## **10.01 Trust**

The Employer [select one]:

Does

Does Not

intend to establish a rabbi trust as provided in Article 11 of the Plan.

### **11.01 Termination Upon Change In Control**

The Plan Sponsor

Reserves

Does Not Reserves

the right to terminate the Plan and distribute all vested amounts credited to Participant Accounts upon a Change in Control as described in Section 9.7.

### **11.02 Automatic Distribution Upon Change In Control**

Distribution of the remaining vested balance of each Participant's Account

Shall

Shall Not

automatically be paid as a lump sum payment upon the occurrence of a Change in Control as provided in Section 9.7.

### **11.03 Change In Control**

A Change in Control for Plan purposes includes the following [select each definition that applies]:

- (a)  A change in the ownership of the Employer as described in Section 9.7(a) of the Plan.
- (b)  A change in the effective control of the Employer as described in Section 9.7(b) of the Plan.
- (c)  A change in the ownership of a substantial portion of the assets of the Employer as described in Section 9.7(c) of the Plan.
- (d)  Not Applicable.

## **12.01 Governing State Law**

The laws of Georgia shall apply in the administration of the Plan to the extent not preempted by ERISA.

# Execution Page

The Plan Sponsor has caused this Adoption Agreement to be executed this day of , 20.

Plan Sponsor: NCR Corporation

By: James M. Bedore

Title: EVP, General Counsel & Secretary

***Appendix A***

**Special Effective Dates**

Not Applicable

**SEVENTH AMENDMENT TO THE  
RECEIVABLES FINANCING AGREEMENT**

This SEVENTH AMENDMENT TO THE RECEIVABLES FINANCING AGREEMENT (this "Amendment"), dated as of November 30, 2020, is entered into by and among the following parties:

- i. NCR RECEIVABLES, LLC, a Delaware limited liability company, as Borrower (together with its successors and assigns, the "Borrower");
- ii. NCR CORPORATION, a Maryland corporation (the "Servicer"), as initial Servicer;
- iii. MUFG BANK, LTD. (f/k/a The Bank of Tokyo Mitsubishi UFJ, Ltd., New York Branch) ("MUFG"), as a Committed Lender and as a Group Agent;
- iv. VICTORY RECEIVABLES CORPORATION, as a Conduit Lender;
- v. PNC BANK, NATIONAL ASSOCIATION, as a Committed Lender, as a Group Agent and as the Administrative Agent (in such capacity, the "Administrative Agent"); and
- vi. PNC CAPITAL MARKETS LLC, as Structuring Agent.

Capitalized terms used but not otherwise defined herein (including such terms used above) have the respective meanings assigned thereto in the Receivables Financing Agreement described below.

**BACKGROUND**

1. The parties hereto have entered into a Receivables Financing Agreement, dated as of November 21, 2014 (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Receivables Financing Agreement").

2. The parties hereto desire to amend the Existing Receivables Financing Agreement as set forth herein (as so amended, the "Receivables Financing Agreement").

***NOW, THEREFORE***, with the intention of being legally bound hereby, and in consideration of the mutual undertakings expressed herein, each party to this Amendment hereby agrees as follows:

SECTION 1. Amendments to the Existing Receivables Financing Agreement. The Existing Receivables Financing Agreement is hereby amended as shown on the marked pages set forth on Exhibit A attached hereto.

SECTION 2. Amendment Fees. On the date hereof, the Borrower shall pay the following one-time "Amendment Fees":  
(a) to PNC Capital Markets LLC, as Structuring Agent

for its own account, an amount equal to, \$62,500, and (b) to MUFG, as a Group Agent, for the account of the Lenders in its Group, \$37,500. The Amendment Fees (i) are fully earned as of the date hereof, (ii) shall be paid by the Borrower on the date hereof in immediately available funds, (iii) are not refundable under any circumstances, and (iv) are payable in addition to (and not in lieu of) any other fees payable under, or in connection with, the Transaction Documents.

SECTION 3. Representations and Warranties of the Borrower and Servicer. The Borrower and the Servicer hereby represent and warrant to each of the parties hereto as of the date hereof as follows:

(a) *Representations and Warranties*. The representations and warranties made by it in Section 6.01 or Section 6.02, as applicable, of the Receivables Financing Agreement are true and correct on and as of the date hereof unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct on and as of such earlier date.

(b) *Power and Authority; Due Authorization*. It (i) has all necessary power and authority to (A) execute and deliver this Amendment, the Receivables Financing Agreement and the other Transaction Documents to which it is a party and (B) perform its obligations under this Amendment, the Receivables Financing Agreement and the other Transaction Documents to which it is a party and (ii) the execution, delivery and performance of, and the consummation of the transactions provided for in, this Amendment, the Receivables Financing Agreement and the other Transaction Documents to which it is a party have been duly authorized by it by all necessary limited liability company action or corporate action, as applicable.

(c) *Binding Obligations*. This Amendment, the Receivables Financing Agreement and each of the other Transaction Documents to which it is a party constitutes its legal, valid and binding obligations, enforceable against it in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(d) *No Termination Event*. No Termination Event or Unmatured Termination Event has occurred and is continuing, and no Termination Event or Unmatured Termination Event would result from this Amendment.

SECTION 4. Effect of Amendment; Ratification. All provisions of the Receivables Financing Agreement and the other Transaction Documents, as expressly amended and modified by this Amendment, shall remain in full force and effect. After this Amendment becomes effective, all references in the Receivables Financing Agreement (or in any other Transaction Document) to "this Receivables Financing Agreement", "this Agreement", "hereof", "herein" or words of similar effect referring to the Receivables Financing Agreement shall be deemed to be references to the Receivables Financing Agreement as amended by this Amendment. This



Amendment shall not be deemed, either expressly or impliedly, to waive, amend or supplement any provision of the Receivables Financing Agreement other than as set forth herein. The Receivables Financing Agreement, as amended by this Amendment, is hereby ratified and confirmed in all respects.

SECTION 5. Conditions to Effectiveness. This Amendment shall become effective as of the date hereof when the Administrative Agent has received counterparts hereto duly executed by each of the parties hereto; provided, however, that Section 1 of this Amendment shall not be effective until the Amendment Fees have been paid in full in accordance with the terms hereof.

SECTION 6. Severability. Any provisions of this Amendment which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 7. Transaction Document. This Amendment shall be a Transaction Document for purposes of the Receivables Financing Agreement.

SECTION 8. Counterparts. This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment by facsimile or e-mail transmission shall be effective as delivery of a manually executed counterpart hereof.

SECTION 9. GOVERNING LAW AND JURISDICTION.

(a) THIS AMENDMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF, EXCEPT TO THE EXTENT THAT THE PERFECTION, THE EFFECT OF PERFECTION OR PRIORITY OF THE INTERESTS OF ADMINISTRATIVE AGENT OR ANY LENDER IN THE COLLATERAL IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK).

(b) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO (I) WITH RESPECT TO THE BORROWER AND THE SERVICER, THE EXCLUSIVE JURISDICTION, AND (II) WITH RESPECT TO EACH OF THE OTHER PARTIES HERETO, THE NON-EXCLUSIVE JURISDICTION, IN EACH CASE, OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS

IN RESPECT OF SUCH ACTION OR PROCEEDING (I) IF BROUGHT BY THE BORROWER, THE SERVICER OR ANY AFFILIATE THEREOF, SHALL BE HEARD AND DETERMINED, AND (II) IF BROUGHT BY ANY OTHER PARTY TO THIS AMENDMENT, MAY BE HEARD AND DETERMINED, IN EACH CASE, IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. NOTHING IN THIS SECTION 8 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY OTHER CREDIT PARTY TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWER OR THE SERVICER OR ANY OF THEIR RESPECTIVE PROPERTY IN THE COURTS OF OTHER JURISDICTIONS. EACH OF THE BORROWER AND THE SERVICER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

SECTION 10. Section Headings. The various headings of this Amendment are included for convenience only and shall not affect the meaning or interpretation of this Amendment, the Receivables Financing Agreement or any provision hereof or thereof.

*[Signature pages follow.]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the date first written above.

NCR RECEIVABLES LLC, as the Borrower

By:

/s/David Rusate

Name: David Rusate  
Title: Treasurer

NCR CORPORATION,  
as the Servicer

By:

/s/ Timothy C. Oliver

Name: Timothy C. Oliver  
Title: Executive Vice President and Chief Financial  
Officer

PNC BANK, NATIONAL ASSOCIATION, as Administrative Agent, as a Group Agent and as a Committed Lender

By:

/s/ Eric Bruno

Name: Eric Bruno  
Title: Senior Vice President

PNC CAPITAL MARKETS LLC, as Structuring Agent

By:

/s/ Eric Bruno

Name: Eric Bruno  
Title: Managing Director

MUFG BANK, LTD., as a Group Agent and as a Committed Lender

By:

/s/ Eric Williams

Name: Eric Williams  
Title: Managing Director

VICTORY RECEIVABLES CORPORATION,  
as a Conduit Lender

By:

/s/ Kevin J. Corrigan

Name: Kevin J. Corrigan  
Title: Vice President

**EXHIBIT A**  
**(Attached)**

**RECEIVABLES FINANCING AGREEMENT**

Dated as of November 21, 2014

by and among

NCR RECEIVABLES LLC,  
as Borrower,

THE PERSONS FROM TIME TO TIME PARTY HERETO,  
as Lenders and as Group Agents,

PNC BANK, NATIONAL ASSOCIATION,  
as Administrative Agent,

PNC CAPITAL MARKETS LLC,  
as Structuring Agent,

and

NCR CORPORATION,  
as initial Servicer

(e) that arises under a duly authorized Contract that is in full force and effect and that is a legal, valid and binding obligation of the related Pool Obligor, enforceable against such Pool Obligor in accordance with its terms;

(f) that, together with the Contract related thereto, conforms in all material respects with all Applicable Laws then in effect;

(g) that is not subject to any existing dispute, right of rescission, set-off, counterclaim, hold back defense or other defense against payment or Adverse Claim, in each case, only with respect to the portion of the Outstanding Balance of such Pool Receivable that is subject to such dispute, right of rescission, set-off, counterclaim, defense or Adverse Claim; provided that the deferred revenue liability included in the Specifically Reserved Maintenance Revenue Amount shall not constitute a dispute, right of rescission, set-off, counterclaim, hold back defense or other defense for purposes of this definition;

(h) that satisfies all applicable requirements of the Credit and Collection Policy;

(i) that, together with the provisions of the Contract affecting such Receivable, has not been modified, waived or restructured since its creation, except with the written consent of the Administrative Agent and the Majority Group Agents or as otherwise permitted pursuant to Section 8.02 of this Agreement;

(j) in which the Borrower owns good and marketable title, free and clear of any Adverse Claims, and that is freely assignable (including without any consent of the related Pool Obligor or any Governmental Authority), giving effect to any applicable provisions of the UCC regarding restrictions or prohibitions on assignment;

(k) for which the Administrative Agent (on behalf of the Secured Parties) shall have a valid and enforceable first priority perfected security interest therein and in the Related Security and Collections with respect thereto, in each case free and clear of any Adverse Claim;

(l) that constitutes an “account,” “general intangible” or “chattel paper” and that is not evidenced by an “instrument,” each as defined in the UCC;

(m) that is neither a Defaulted Receivable nor a Delinquent Receivable;

(n) that represents amounts earned and payable by the Pool Obligor that are not subject to the performance of additional services or delivery of additional goods by the Originator thereof; provided, however, that if such Receivable is subject to the performance of additional services or delivery of additional goods by the Originator thereof, only the portion of such Receivable attributable to such additional services or goods shall be excluded from Eligible Receivables; and



(o) that, if such Receivable is an Unbilled Receivable, is an Eligible Unbilled Receivable.

~~(e) which Receivable has been or will be billed or invoiced to the Obligor thereon within the next thirty~~ “Eligible Unbilled Receivable” means, at any time, any Unbilled Receivable for which (a) the related Originator has recognized the related revenue on its financial books and records under GAAP, and (b) not more than thirty (30) days (or such longer period consented to by the Administrative Agent and the Group Agents) have expired since the origination date of such Unbilled Receivable.

“Equity Interest” means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rule or regulation issued thereunder.

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

“Euro Rate” means for any day during any Interest Period, the greater of (a) 0.00% and (b) the interest rate per annum determined by the applicable Group Agent (which determination shall be conclusive absent manifest error) by dividing (i) the one-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0001M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, as of 11:00 a.m. (London time) on the second Business Day preceding the first day of such Interest Period (or if not so reported, then as determined by the Administrative Agent from another recognized source for interbank quotation), by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage on such day. The calculation of the Euro Rate may also be expressed by the following formula:

$$\text{Euro Rate} = \frac{\text{One-month Eurodollar rate for U.S. Dollars shown on Bloomberg US0001M Screen or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage.}}$$

“Euro-Rate Reserve Percentage” means, the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including without limitation, supplemental,

marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities”).

“Excess Concentration Amount” means, the sum, without duplication, of:

(a) the sum of the amounts calculated for each of the Pool Obligors equal to the excess (if any) of (i) the aggregate Outstanding Balance of the Eligible Receivables of such Obligor, over (ii) the product of (x) such Obligor’s Concentration Percentage, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(b ) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than 90 days from the original invoice date for such payment over (ii) the product of (x) 30.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(c) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than 120 days but less than 151 days from the original invoice date for such payment over (ii) the product of (x) 10.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(d) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables as to which any payment, or part thereof, remains unpaid for more than 150 days from the original invoice date for such payment over (ii) the product of (x) 10.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(e) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables, the Obligor of which is a Governmental Authority, over (ii) the product of (x) 5.00%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(f) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables which have a due date which is more than 90 days after the original invoice date of such Receivable, over (ii) the product of (x) 5.00% multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; plus

(g) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that are Unbilled Receivables, over (ii) the product of (x) 20%, multiplied by (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool;

provided, however, that for the avoidance of doubt, the aggregate amount included in the Excess Concentration Amount at any time with respect to any Pool Obligor’s Eligible Receivables shall

not exceed the aggregate Outstanding Balance of all such Pool Obligor's Eligible Receivables at such time.

"Exchange Act" means the Securities Exchange Act of 1934, as amended or otherwise modified from time to time.

"Excluded Obligor" has the meaning set forth in the Purchase and Sale Agreement.

Borrower) and maintained at a bank or other financial institution acting as a Lock-Box Bank pursuant to a Lock-Box Agreement for the purpose of receiving Collections.

"Lock-Box Agreement" means each agreement, in form and substance satisfactory to the Administrative Agent, among the Borrower, the Servicer (if applicable), the Administrative Agent and a Lock-Box Bank, governing the terms of the related Lock-Box Accounts, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Lock-Box Bank" means any of the banks or other financial institutions holding one or more Lock-Box Accounts.

~~"Loss Horizon Eight Months Ratio" means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the eight most recent Fiscal Months, by (b) the Net Receivables Pool Balance as of such date.~~"Loss Horizon Five Months A Ratio" means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the five most recent Fiscal Months, by (b) the Net Receivables Pool Balance as of such date.

"Loss Horizon B Ratio" means at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by dividing: (a) the sum of (x) the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the five most recent Fiscal Months plus (y) 35% times the aggregate initial Outstanding Balance of all Pool Receivables originated by the Originators during the sixth most recent Fiscal Month, by (b) the Net Receivables Pool Balance as of such date.

"Loss Reserve Percentage" means, at any time of determination, the sum of (a) 70.00% times the product of (i) 2.25, times (ii) the highest average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, times (iii) the Loss Horizon ~~Five Months~~A Ratio, plus (b) 30.00% times the product of (i) 2.25, times (ii) the highest average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, times (iii) the Loss Horizon ~~Eight Months~~B Ratio.

"Majority Group Agents" means one or more Group Agents which in its Group, or their combined Groups, as the case may be, have Committed Lenders representing more than 50% of the aggregate Commitments of all Committed Lenders in all Groups (or, if the Commitments

have been terminated, have Lenders representing more than 50% of the Aggregate Capital); provided, however, that so long as there are two or more Groups party hereto, no less than two Group Agents shall constitute the Majority Group Agents.

“Majority-Owned Subsidiary of a Listed Entity” means an entity whose common stock or analogous equity interests are at least 51% owned by a company (i) listed on the New York Stock Exchange or the American Stock Exchange or (ii) whose common stock or analogous equity

“Termination Event” has the meaning set forth in Section 9.01. For the avoidance of doubt, a Termination Event shall occur only after applicable cure periods, if any, specified in Section 9.01 have expired, and any Termination Event that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 13.01.

“Third Amendment Closing Date” means November 15, 2018.

“Total Reserves” means, at any time of determination, the product of (a) the sum of: (i) the Yield Reserve Percentage, plus (ii) the greater of (x) the sum of the Concentration Reserve Percentage plus the Minimum Dilution Reserve Percentage and (y) the sum of the Loss Reserve Percentage plus the Dilution Reserve Percentage, times (b) the Adjusted Net Receivables Pool Balance on such day.

“Transaction Documents” means this Agreement, the RFA Notes, the Purchase and Sale Agreement, the Lock-Box Agreements, the Fee Letter, the Intercreditor Agreement, each Subordinated Note, any Performance Guaranty, the Borrower’s Limited Liability Company Agreement, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“Transaction Information” means any information provided to any Rating Agency for the purpose of such Rating Agency providing or proposing to provide a rating of any Notes or monitoring such rating including, without limitation, any such information relating to the Borrower, the Originator, the Servicer or the Pool Receivables.

“UCC” means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction.

“Unbilled Receivable” means, at any time, any Receivable as to which the invoice or bill with respect thereto has not yet been sent to the Obligor thereof.

“Unmatured Termination Event” means an event that but for notice or lapse of time or both would constitute a Termination Event.

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

“U.S. Tax Compliance Certificate” has the meaning set forth in Section 4.03(f)(ii)(D).

“Victory” means Victory Receivables Corporation, a Delaware corporation.

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

“Withholding Agent” means the Borrower, the Servicer or the Administrative Agent.

“Yield Reserve Percentage” means, at any time of determination:

(d) Solely for purposes of reporting information regarding the Pool Receivables, the Net Receivables Pool Balance and the Borrowing Base in any Information Package, Loan Request or similar report or certification, the portion of the Pool Receivables’ aggregate Outstanding Balance that (x) is subject to potential set-off or a similar right of offset or that remains subject to the performance of additional services or delivery of additional goods by the Originators or (y) ~~will be billed or invoiced to the Obligor thereon within the next thirty days (or such longer period consented to by the Administrative Agent and the Group Agents) as contemplated by clause (g) of the definition of~~ “constitutes an Eligible Unbilled Receivable,” the Seller and the Servicer shall either (i) report the actual amount thereof or (ii) report an estimate of such amount calculated in manner and using assumptions approved by the Administrative Agent in consultation with the Servicer, and reporting such an estimate shall not be deemed to constitute a default under or breach of this Agreement or any other Transaction Document. For the avoidance of doubt, the reporting and use of such an estimated amount pursuant to this paragraph shall not derogate from (x) any obligation of the Seller to ensure that no Borrowing Base Deficit exists based upon the actual portion of the Pool Receivables’ aggregate Outstanding Balance that is subject to potential set-off or a similar right of offset or that remains subject to the performance of additional services or delivery of additional goods by the Originators or (y) any obligation of the Seller or the Servicer to notify the other parties hereto that a Borrowing Base Deficit exists based upon such actual amounts.

## ARTICLE IV

### INCREASED COSTS; FUNDING LOSSES; TAXES; ILLEGALITY AND SECURITY INTEREST

#### SECTION 4.01. Increased Costs.

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

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Affected Person (except any reserve requirement reflected in the LIBOR Rate);

(ii) subject any Affected Person to any Taxes (other than (A) Indemnified Taxes, (B) clauses (b) through (d) of Excluded Taxes and (C) Other

Connection Taxes that are imposed on or measured by net income, profits or revenue) on its loans, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Affected Person or the London interbank market any other condition, cost or expense affecting the Collateral, this Agreement, any other Transaction Document, any Program Support Agreement, or any Loan made by, or supported by, such Affected Person;

and the result of any of the foregoing shall be to increase the cost to such Affected Person of (A) acting as the Administrative Agent, a Group Agent or a Lender hereunder or as a Program

INCREMENTAL TERM LOAN A FACILITY AGREEMENT dated as of February 16, 2021 (this "Agreement"), among NCR CORPORATION, a Maryland corporation (the "Company"), the other LOAN PARTIES party hereto, the TRANCHE 1 INCREMENTAL TERM A-2021 LENDERS (as defined below) party hereto (including any party that becomes a Tranche 1 Incremental Term A-2021 Lender pursuant to Section 16(b) hereof), the TRANCHE 2 INCREMENTAL TERM A-2021 LENDERS (as defined below) party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent (the "Administrative Agent"), relating to the CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, (III) that certain Third Amendment, dated as of January 22, 2021, and (IV) that certain Fourth Amendment, dated as of February 4, 2021, and as otherwise amended and in effect prior to the effectiveness of this Agreement, the "Credit Agreement"; the Credit Agreement, as modified by this Agreement and as amended, restated, supplemented or otherwise modified from time to time, including by the Incremental Revolving Facility Agreement (as defined below), the "Amended Credit Agreement"), among the Company, the Foreign Borrowers from time to time party thereto, the Lenders from time to time party thereto and the Administrative Agent.

WHEREAS, reference is hereby made to that certain Acquisition Agreement, dated as of January 25, 2021 (as amended and in effect prior to the effectiveness of this Agreement, together with all schedules, exhibits and other attachments thereto, the "Project Comet Acquisition Agreement"), by and among Cardtronics plc, a public limited company incorporated in England and Wales (registered no. 10057418) ("Comet"), the Company and, solely for purposes of Section 8.2, Section 8.4 and Article IX thereof, Cardtronics USA, Inc., a Delaware corporation and a wholly owned subsidiary of Comet ("Comet USA"), to effect the acquisition by the Company of Comet (the "Project Comet Acquisition").

WHEREAS, in connection with the Project Comet Acquisition, the Company has requested that, pursuant to and in accordance with Section 2.20 of the Amended Credit Agreement, (a) the Tranche 1 Incremental Term A-2021 Lenders provide Tranche 1 Incremental Term A-2021 Commitments (as defined below) on the Effective Date (as defined below) and make Tranche 1 Incremental Term A-2021 Loans (as defined below) on the Closing Date (as defined below) to the Company in an aggregate principal amount equal to \$1,255,000,000 (as such amount may be increased or decreased pursuant to Section 16(b) hereof) (the "Tranche 1 Incremental Term A-2021 Facility"), subject to the terms and conditions set forth herein, and (b) the Tranche 2 Incremental Term A-2021 Lenders provide Tranche 2 Incremental Term A-2021 Commitments (as defined below) on the Effective Date

and make Tranche 2 Incremental Term A-2021 Loans (as defined below) on the Closing Date to the Company in an aggregate principal amount equal to \$200,000,000 (the “Tranche 2 Incremental Term A-2021 Facility” and, together with the Tranche 1 Incremental Term A-2021 Facility, the “Incremental Term A-2021 Facilities”), subject to the terms and conditions set forth herein.

WHEREAS, each Person party hereto whose name is set forth on Schedule I hereto under the heading “Tranche 1 Incremental Term A-2021 Lenders” (as such Schedule I may be amended pursuant to Section 16(b) hereof) (each such Person, a “Tranche 1 Incremental Term A-2021 Lender”) has agreed (a) to provide Incremental Term Commitments to the Company on the Effective Date in the amount set forth opposite such Tranche 1 Incremental Term A-2021 Lender’s name on such Schedule I (as such Schedule I may be amended pursuant to Section 16(b) hereof) (such commitments, the “Tranche 1 Incremental Term A-2021 Commitments”) and (b) to make Incremental Term A Loans (such loans, the “Tranche 1 Incremental Term A-2021 Loans”) on the Closing Date to the Company in an aggregate principal amount not to exceed the Tranche 1 Incremental Term A-2021 Commitment of such Tranche 1 Incremental Term A-2021 Lender, in each case, subject to the terms and conditions set forth herein.

WHEREAS, each Person party hereto whose name is set forth on Schedule II hereto under the heading “Tranche 2 Incremental Term A-2021 Lenders” (each such Person, a “Tranche 2 Incremental Term A-2021 Lender”; the Tranche 1 Incremental Term A-2021 Lenders and the Tranche 2 Incremental Term A-2021 Lenders, collectively, the “Incremental Term A-2021 Lenders”) has agreed (a) to provide Incremental Term Commitments to the Company on the Effective Date in the amount set forth opposite such Tranche 2 Incremental Term A-2021 Lender’s name on such Schedule II (such commitments, the “Tranche 2 Incremental Term A-2021 Commitments” and, together with the Tranche 1 Incremental Term A-2021 Commitments, the “Incremental Term A-2021 Commitments”) and (b) to make Incremental Term A Loans (such loans, the “Tranche 2 Incremental Term A-2021 Loans” and, together with the Tranche 1 Incremental Term A-2021 Loans, the “Incremental Term A-2021 Loans”) on the Closing Date to the Company in an aggregate principal amount not to exceed the Tranche 2 Incremental Term A-2021 Commitment of such Tranche 2 Incremental Term A-2021 Lender, in each case, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein (including in the preamble and the recitals hereto) shall have the meanings assigned to such terms in the Credit Agreement. As used in this Agreement, the following terms have the meaning specified below:

“Comet Debt Refinancing” means, collectively, the transactions pursuant to which, to the extent existing on the Closing Date, substantially concurrently with the



consummation of the Project Comet Acquisition, the Company will repay in full, or cause the repayment in full of, all principal, premium, if any, interest, fees and other amounts due or outstanding (other than contingent obligations not then due and payable) under (a) that certain Second Amended and Restated Credit Agreement, dated as of November 19, 2018 (as amended by Amendment No. 1, dated as of September 19, 2019, Amendment No. 2, dated as of May 29, 2020, Amendment No. 3, dated as of June 29, 2020, and as otherwise amended and in effect prior to the effectiveness of this Agreement, the “Comet Revolving Credit Agreement”), by and among Comet, the other obligors party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent, (b) the Term Loan Credit Agreement, dated as of June 29, 2020 (as amended and in effect prior to the effectiveness of this Agreement), by and among Comet, Comet USA, the other obligors party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent, and (c) the 5.50% Senior Notes due 2025, issued pursuant to the Indenture, dated as of April 4, 2017 and as otherwise amended and in effect prior to the effectiveness of this Agreement, by and among Comet, Comet USA and Wells Fargo Bank, National Association, and, in each case, will cause termination of all the commitments thereunder and discharge and release of all guarantees and liens existing in connection therewith or otherwise make arrangements for such discharge and release reasonably acceptable to the Project Comet Lead Arrangers; provided that any letters of credit (and reimbursement obligations in respect thereof) outstanding under the Comet Revolving Credit Agreement that are cash collateralized or otherwise backstopped, or are “grandfathered” or “rolled over” into the Revolving Facility, shall be permitted to remain outstanding.

“Incremental Term-A 2021 Lead Arrangers” means BofA Securities, Inc., JPMorgan Chase Bank, N.A., Wells Fargo Securities, LLC, Truist Securities, Inc., MUFG Bank, Ltd., PNC Capital Markets LLC, RBC Capital Markets<sup>1</sup>, Capital One, N.A., TD Securities (USA) LLC and Fifth Third Bank, National Association.

“Incremental Term A-2021 Left Lead Arranger” means BofA Securities, Inc.

“Project Comet Commitment Letter” means the Second Amended and Restated Commitment Letter, dated the date hereof, among the Company, the Incremental Term-A 2021 Lead Arrangers and certain Affiliates of the Incremental Term A-2021 Lead Arrangers.

“Project Comet Transaction Costs” means, collectively, (a) the consideration required to be paid by the Company on the Closing Date pursuant to the Project Comet Acquisition Agreement, (ii) the fees and expenses incurred in connection with the Project Comet Transactions and (iii) the fees and expenses incurred in connection with the Comet Debt Refinancing.

“Project Comet Transactions” means, collectively, (a) the consummation of the Project Comet Acquisition, (b) the establishment of the Incremental Term-A 2021

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<sup>1</sup> RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.

Facilities and the borrowing of Incremental Term A-2021 Loans hereunder on the Closing Date, (c) the establishment of the Incremental TLB Facility (as defined in the Project Comet Commitment Letter) and the borrowing of loans thereunder on the Closing Date, (d) (i) the issuance and sale of the Notes (as defined in the Project Comet Commitment Letter) and (ii) to the extent the Notes are not issued on or prior to the Closing Date, the establishment of the Bridge Facility (as defined in the Project Comet Commitment Letter) and the borrowing of loans thereunder on the Closing Date, (e) the consummation of the Comet Debt Refinancing and (f) the payment of the Project Comet Transaction Costs.

“Specified Project Comet Acquisition Agreement Representations” means the representations and warranties of Comet and its subsidiaries made in the Project Comet Acquisition Agreement that are material to the interests of the Incremental Term A-2021 Lenders, but only to the extent that the Company or any of its Affiliates has the right under the Project Comet Acquisition Agreement not to consummate the Project Comet Acquisition, or to terminate the obligations of the Company and its Affiliates under the Project Comet Acquisition Agreement, as a result of a breach of such representations and warranties.

“Specified Project Comet Representations” means the representations and warranties set forth in Sections 3.01(a) (solely with respect to the Company, each Foreign Borrower and each Material Subsidiary), 3.02 (solely with respect to the corporate or other organizational power and authority of the Loan Parties party hereto to enter into and perform this Agreement and the Project Comet Transactions), 3.03(c) (solely with respect to due authorization, execution and delivery of, and enforceability of, this Agreement), 3.03(d) (other than with respect to any agreements governing Indebtedness being repaid in connection with the Project Comet Transactions), 3.08, 3.12 (with references therein to the “Transactions” and the “Effective Date” being deemed to be references to the “Project Comet Transactions” and the “Closing Date”, respectively), 3.14 (subject in all respects to security interests permitted under this Agreement and the Credit Agreement as in effect on the date hereof), 3.15 and 3.16 (solely with respect to the use of proceeds of the Incremental Term-A 2021 Loans made on the Closing Date) of the Credit Agreement as in effect on the date hereof.

SECTION 2. Tranche 1 Incremental Term A-2021 Facility. (a) Subject to the terms and conditions set forth herein, each Tranche 1 Incremental Term A-2021 Lender agrees, severally and not jointly, to make, on the Closing Date, a Tranche 1 Incremental Term A-2021 Loan denominated in Dollars in a principal amount not to exceed the Tranche 1 Incremental Term A-2021 Commitment of such Tranche 1 Incremental Term A-2021 Lender. No Tranche 1 Incremental Term A-2021 Lender shall be responsible for any other Tranche 1 Incremental Term A-2021 Lender’s failure to fund Tranche 1 Incremental Term A-2021 Loans.

(b) Subject to the terms and conditions set forth herein, pursuant to Section 2.20 of the Amended Credit Agreement, and effective as of the Closing Date, for all purposes of the Loan Documents, (i) the Tranche 1 Incremental Term A-2021 Loans shall constitute a new Class of Term Loans under the Amended Credit Agreement, (ii) the Tranche

1 Incremental Term A-2021 Commitments shall be “Commitments”, “Incremental Commitments” and “Incremental Term Commitments” under the Amended Credit Agreement, (iii) the Tranche 1 Incremental Term A-2021 Loans shall be “Loans”, “Term Loans”, “Incremental Term Loans” and “Incremental Term A Loans” under the Amended Credit Agreement, (iv) Borrowings of Tranche 1 Incremental Term A-2021 Loans shall constitute “Term Borrowings” under the Amended Credit Agreement, including for purposes of mandatory prepayments under Section 2.10 of the Amended Credit Agreement (other than Section 2.10(i)), and (v) each Tranche 1 Incremental Term A-2021 Lender shall be (or, in the case of any Tranche 1 Incremental Term A-2021 Lender with a Commitment or Loan outstanding under the Amended Credit Agreement immediately prior to the Closing Date, shall continue to be) a “Lender”, a “Term Lender” and an “Incremental Term Lender” under the Amended Credit Agreement, and shall have all the rights and obligations of, and benefits accruing to, Lenders, Term Lenders and Incremental Term Lenders under the Amended Credit Agreement and the other Loan Documents, and shall be bound by all the agreements, acknowledgements and other obligations of Lenders, Term Lenders and Incremental Term Lenders under the Amended Credit Agreement and the other Loan Documents.

(c) Amounts borrowed in respect of the Tranche 1 Incremental Term A-2021 Loans and subsequently repaid or prepaid may not be reborrowed. Unless previously terminated, the Tranche 1 Incremental Term-A 2021 Commitments shall automatically terminate upon the making of the Tranche 1 Incremental Term-A 2021 Loans on the Closing Date.

(d) Notwithstanding anything to the contrary in Section 5.11 of the Credit Agreement, the proceeds of the Tranche 1 Incremental Term-A 2021 Loans shall be used by the Company to finance a portion of the Project Comet Transactions and to pay Project Comet Transaction Costs, and any remaining proceeds of the Tranche 1 Incremental Term-A 2021 Loans shall be used for working capital and general corporate purposes of the Company and its Subsidiaries and for any other purpose not prohibited by the Credit Agreement or this Agreement.

(e) The Administrative Agent hereby consents to this Agreement and confirms that each Tranche 1 Incremental Term A-2021 Lender not already a Lender under the Credit Agreement immediately prior to the effectiveness of this Agreement is acceptable to the Administrative Agent.

SECTION 3. Tranche 2 Incremental Term A-2021 Facility. (a) Subject to the terms and conditions set forth herein, each Tranche 2 Incremental Term A-2021 Lender agrees, severally and not jointly, to make, on the Closing Date, a Tranche 2 Incremental Term A-2021 Loan denominated in Dollars in a principal amount not to exceed the Tranche 2 Incremental Term A-2021 Commitment of such Tranche 2 Incremental Term A-2021 Lender. No Tranche 2 Incremental Term A-2021 Lender shall be responsible for any other Tranche 2 Incremental Term A-2021 Lender’s failure to fund Tranche 2 Incremental Term A-2021 Loans.

(b) Subject to the terms and conditions set forth herein, pursuant to Section 2.20 of the Amended Credit Agreement, and effective as of the Closing Date, for all purposes of the Loan Documents, (i) the Tranche 2 Incremental Term A-2021 Loans shall constitute a new Class of Term Loans under the Amended Credit Agreement, (ii) the Tranche 2 Incremental Term A-2021 Commitments shall be “Commitments”, “Incremental Commitments” and “Incremental Term Commitments” under the Amended Credit Agreement, (iii) the Tranche 2 Incremental Term A-2021 Loans shall be “Loans”, “Term Loans”, “Incremental Term Loans” and “Incremental Term A Loans” under the Amended Credit Agreement, (iv) Borrowings of Tranche 2 Incremental Term A-2021 Loans shall constitute “Term Borrowings” under the Amended Credit Agreement, including for purposes of mandatory prepayments under Section 2.10 of the Amended Credit Agreement (other than Section 2.10(i)), and (v) each Tranche 2 Incremental Term A-2021 Lender shall be (or, in the case of any Tranche 2 Incremental Term A-2021 Lender with a Commitment or Loan outstanding under the Amended Credit Agreement immediately prior to the Closing Date, shall continue to be) a “Lender”, a “Term Lender” and an “Incremental Term Lender” under the Amended Credit Agreement, and shall have all the rights and obligations of, and benefits accruing to, Lenders, Term Lenders and Incremental Term Lenders under the Amended Credit Agreement and the other Loan Documents, and shall be bound by all the agreements, acknowledgements and other obligations of Lenders, Term Lenders and Incremental Term Lenders under the Amended Credit Agreement and the other Loan Documents.

(c) Except to the extent the Tranche 2 Incremental Term A-2021 Loans are repaid and/or converted to Revolving Loans in connection with the effectiveness of the Project Comet Acquisition Incremental Revolving Commitments pursuant to Section 4 of this Agreement, amounts borrowed in respect of the Tranche 2 Incremental Term A-2021 Loans and subsequently repaid or prepaid may not be reborrowed. Unless previously terminated, the Tranche 2 Incremental Term-A 2021 Commitments shall automatically terminate upon the making of the Tranche 2 Incremental Term-A 2021 Loans on the Closing Date.

(d) Notwithstanding anything to the contrary in Section 5.11 of the Credit Agreement, the proceeds of the Tranche 2 Incremental Term-A 2021 Loans shall be used by the Company to finance a portion of the Project Comet Transactions and to pay Project Comet Transaction Costs, and any remaining proceeds of the Tranche 2 Incremental Term-A 2021 Loans shall be used for working capital and general corporate purposes of the Company and its Subsidiaries and for any other purpose not prohibited by the Credit Agreement or this Agreement.

(e) The Administrative Agent hereby consents to this Agreement and confirms that each Tranche 2 Incremental Term A-2021 Lender not already a Lender under the Credit Agreement immediately prior to the effectiveness of this Agreement is acceptable to the Administrative Agent.

#### SECTION 4. Conversion of Tranche 2 Incremental Term A-2021 Loans to Incremental Revolving Commitments.

(a) Subject to the terms and conditions set forth

herein, each Tranche 2 Incremental Term A-2021 Lender agrees, severally and not jointly and effective as of the date that is three Business Days after the Closing Date (or such other date as is acceptable to the Administrative Agent), to provide Incremental Revolving Commitments to the Company in an aggregate principal amount equal to the aggregate principal amount of the Tranche 2 Incremental Term A-2021 Loans funded by such Tranche 2 Incremental Term A-2021 Lender on the Closing Date (such Incremental Revolving Commitments, the “Project Comet Acquisition Incremental Revolving Commitments”). No Tranche 2 Incremental Term A-2021 Lender shall be responsible for any other Tranche 2 Incremental Term A-2021 Lender’s failure to provide Project Comet Acquisition Incremental Revolving Commitments. The terms of the Project Comet Acquisition Incremental Revolving Commitments shall be identical to the terms of the Extended Revolving Commitments under and as defined in the Incremental Revolving Facility Agreement, dated as of the date hereof (the “Incremental Revolving Facility Agreement”), among the Company, the Foreign Borrowers party thereto, the Subsidiary Loan Parties party thereto, the Incremental Revolving Lenders (as defined therein) party thereto and the Administrative Agent, as such agreement is in effect on the date hereof.

(b) The effectiveness of the Project Comet Acquisition Incremental Revolving Commitment of each Tranche 2 Incremental Term A-2021 Lender shall be subject to (i) the satisfaction of the conditions set forth in this Agreement to the funding of the Tranche 2 Incremental Term A-2021 Loans and (ii) the repayment in full of the Tranche 2 Incremental Term A-2021 Loans (which may be financed with the proceeds of Revolving Loans under the Amended Credit Agreement, subject to the satisfaction of the applicable conditions to the borrowing of Revolving Loans under the Credit Agreement as in effect on the date thereof, in which case, (x) such Tranche 2 Incremental Term-A Loans shall be deemed to be Revolving Loans, (y) each Tranche 2 Incremental Term A-2021 Lender shall assign to each Revolving Lender, and each such Revolving Lender shall purchase from each Incremental Term A-2021 Lender, at the principal amount thereof (together with accrued interest), such interests in the Incremental Term A-2021 Loans outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Incremental Term A-2021 Loans will be held by all the Revolving Lenders (including such Incremental Term A-2021 Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Project Comet Acquisition Incremental Revolving Commitment, and (z) each Revolving Lender shall assign to each Incremental Term A-2021 Lender holding such Project Comet Acquisition Incremental Revolving Commitment, and each such Incremental Term A-2021 Lender shall purchase from each Revolving Lender, at the principal amount thereof (together with accrued interest), such participations in Letters of Credit outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such participations in Letters of Credit will be held by all the Revolving Lenders (including such Incremental Term A-2021 Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Project Comet Acquisition Incremental Revolving Commitment). Further, notwithstanding anything to the contrary in this Agreement or the Amended Credit Agreement, no conversion into Project Comet Acquisition Incremental Revolving Commitments shall become effective unless (A) no Default or Event of Default shall have occurred and be continuing on the date

of effectiveness thereof, both immediately prior to and immediately after giving effect to the Project Comet Acquisition Incremental Revolving Commitments and the making of Loans and the issuance of Letters of Credit pursuant thereto on such date, (B) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (1) in the case of the representations and warranties qualified as to materiality, in all respects and (2) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date, (C) after giving effect to the Project Comet Acquisition Incremental Revolving Commitments and the making of Loans pursuant thereto and the use of proceeds thereof (and based on the assumption that borrowings are effected in the full amount of the Project Comet Acquisition Incremental Revolving Commitments), the Company shall be in compliance on a Pro Forma Basis with the covenant contained in Section 6.12 of the Credit Agreement as in effect on the date thereof recomputed as of the last day of the most-recently ended fiscal quarter of the Company for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) of the Amended Credit Agreement and (D) the Company shall have satisfied such other conditions as are required to be satisfied to establish Incremental Revolving Commitments under Section 2.20 of the Credit Agreement as in effect on the date thereof.

(c) If the conditions set forth in the preceding paragraph (b) are not satisfied on the Closing Date, the Tranche 2 Incremental Term A-2021 Loans will remain outstanding under the Amended Credit Agreement with the terms set forth herein until such time as such conditions are satisfied or waived by each Tranche 2 Incremental Term A-2021 Lender. The date on which the conversion from Tranche 2 Incremental Term A-2021 Loans to Project Comet Acquisition Incremental Revolving Commitments occurs is referred to as the “Conversion Date”.

(d) Each Tranche 2 Incremental Term A-2021 Lender agrees to execute on the Conversion Date any documentation that may be reasonably requested by the Company or the Administrative Agent, including an Incremental Facility Agreement, to reflect the foregoing provisions of this Section 4. It is understood and agreed that the conversion of Tranche 2 Incremental Term A-2021 Loans to Project Comet Acquisition Incremental Revolving Commitments shall be subject to such further administrative procedures as the Administrative Agent may reasonably require.

SECTION 5. Amendments to the Credit Agreement. Each Incremental Term A-2021 Lender, by delivering its signature page to this Agreement on the Effective Date, shall be deemed to have authorized the Company and the Administrative Agent, in consultation with the Incremental Term A-2021 Left Lead Arranger but without the consent of any Lender (including any Incremental Term-A 2021 Lender), to effect such amendments to the Credit Agreement (in the form of an amendment and restatement of the Credit Agreement or a “conformed copy” thereof) as may be necessary or appropriate, in the reasonable discretion of the Company and the Administrative Agent, to give effect to the

Incremental Term A-2021 Facilities on the terms and conditions set forth herein and in the Summary of Principal Terms and Conditions for the Incremental Term A-2021 Facilities attached as Exhibit I hereto (the “Incremental Term A-2021 Term Sheet”), including, without limitation, by amending the Credit Agreement to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit II hereto.

SECTION 6. Representations and Warranties. To induce the other parties hereto to enter into this Agreement, the Company and each other Loan Party party hereto hereby represents and warrants to the Administrative Agent and the Incremental Term A-2021 Lenders, on and as of each of the Effective Date and the Closing Date, that this Agreement has been duly executed and delivered by each Loan Party party hereto and constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 7. Conditions to Effective Date. This Agreement and the Incremental Term A-2021 Commitments shall become effective on and as of the date on which the Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Agreement) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Company, each Subsidiary Loan Party and each Incremental Term A-2021 Lender (such date, the “Effective Date”). The Administrative Agent shall notify the Company and the Incremental Term A-2021 Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 8. Conditions to Closing Date. The date on which each of the following conditions precedent is satisfied shall be the “Closing Date” and the transactions contemplated to become effective as of such date shall be subject to the satisfaction of such conditions:

(a) This Agreement shall have been executed and delivered in accordance with the Credit Agreement, and the Effective Date shall have occurred. The Administrative Agent shall have received, from the Company, an executed written Borrowing Request in respect of the Tranche 1 Incremental Term A-2021 Loans and the Tranche 2 Incremental Term A-2021 Loans to be funded on the Closing Date in accordance with Section 2.03 of the Credit Agreement (i) in the case of a Eurocurrency Borrowing, not later than 10:00 a.m., New York City time, two Business Days before the Closing Date or (ii) in the case of an ABR Borrowing, not later than 3:00 p.m., New York City time, on the Closing Date (or, in each case, such later date or time as may be agreed by the Administrative Agent).

(b) The Project Comet Acquisition shall have been consummated, or substantially simultaneously with the initial borrowings under the Incremental Term-A 2021

Facilities on the Closing Date shall be consummated, in all material respects in accordance with the Project Comet Acquisition Agreement (and no provision of the Project Comet Acquisition Agreement shall have been waived, amended, supplemented or otherwise modified in a manner materially adverse to the Incremental Term A-2021 Lenders without the consent of the Incremental Term A-2021 Lead Arrangers (such consent not to be unreasonably withheld, delayed or conditioned)) (it being understood that (i) any decrease in the acquisition consideration shall not be materially adverse to the interests of the Incremental Term A-2021 Lenders or the Incremental Term A-2021 Lead Arrangers so long as such decrease is allocated to reduce the Incremental TLB Facility (as defined in the Project Comet Commitment Letter) and the Bridge Facility (as defined in the Project Comet Commitment Letter) pro rata on a dollar-for-dollar basis, (ii) any increase in the acquisition consideration which is funded solely with cash on hand or borrowings under the Company's existing credit facilities, and not with proceeds of other indebtedness, shall not be materially adverse to the Incremental Term A-2021 Lenders or the Incremental Term A-2021 Lead Arrangers and (iii) the granting of any consent under the Project Comet Acquisition Agreement that is not materially adverse to the interests of the Incremental Term A-2021 Lenders or the Incremental Term A-2021 Lead Arrangers shall not otherwise constitute an amendment or waiver).

(c) Substantially simultaneously with the initial borrowings under the Incremental Term A-2021 Facilities on the Closing Date, (i) the initial borrowing under the Incremental TLB Facility (as defined in the Project Comet Commitment Letter) and, if applicable, the Bridge Facility (as defined in the Project Comet Commitment Letter) shall have occurred and (ii) the Comet Debt Refinancing shall have been consummated.

(d) Since the date of the Project Comet Acquisition Agreement, there shall not have been, nor shall there be, any Material Adverse Effect (as defined in the Project Comet Acquisition Agreement as in effect on January 25, 2021).

(e) The Specified Project Comet Acquisition Agreement Representations (after giving effect to all applicable materiality qualifiers applicable thereto) shall be true and correct to the extent required by the terms of the definition thereof, and the Specified Project Comet Representations shall be true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case, on and as of the Closing Date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date. No Default (as defined in the Credit Agreement) under paragraph (a) or (b) of Article VII of the Credit Agreement or any Default with respect to any Borrower (as defined in the Credit Agreement) under paragraph (i) or (j) of Article VII of the Credit Agreement shall have occurred and be continuing on the Closing Date, both immediately prior to and immediately after giving effect to (A) the Incremental Term A-2021 Commitments and the making of the Incremental Term A-2021 Loans on the Closing Date and (B) the commitments under the Incremental TLB Facility (as defined in the Project Comet Commitment Letter) and the making of loans thereunder on the Closing Date.



(f) The Project Comet Lead Arrangers and the Incremental Term A-2021 Lenders shall have received a solvency certificate substantially in the form attached as Exhibit E to the Project Comet Commitment Letter from the chief financial officer, principal accounting officer, treasurer, controller or other officer with equivalent responsibility of the Company.

(g) The Project Comet Lead Arrangers and the Incremental Term A-2021 Lenders shall have received a favorable written opinion (addressed to the Administrative Agent and the Incremental Term A-2021 Lenders and dated the Closing Date) of each of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, and (ii) local counsel for the Company in each jurisdiction in which any Loan Party party hereto is organized, and the laws of which are not covered by the opinion letter referred to in clause (i) above, in each case in form and substance reasonably satisfactory to the Project Comet Lead Arrangers.

(h) The Project Comet Lead Arrangers and the Incremental Term A-2021 Lenders shall have received a certificate from a Financial Officer of the Company certifying satisfaction of the conditions precedent set forth in Sections 8(b), 8(d) and 8(e).

(i) The Project Comet Lead Arrangers and the Incremental Term A-2021 Lenders shall have received such board resolutions, secretary's certificates, officer's certificates and other documents as the Project Comet Lead Arrangers may reasonably request relating to the organization, existence and good standing of each Loan Party party hereto, the authorization of the transactions contemplated hereby and any other legal matters relating to the Loan Parties, the Loan Documents or the transactions contemplated hereby, all in form and substance reasonably satisfactory to the Project Comet Lead Arrangers.

(j) Subject to the penultimate paragraph of this Section 8, all documents and instruments required to create and perfect the Administrative Agent's security interests in the Collateral securing the Incremental Term-A 2021 Facilities shall have been executed and delivered by the Loan Parties and, if applicable, be in proper form for filing (or arrangements reasonably satisfactory to the Administrative Agent shall have been made for the execution, delivery and filing of such documents and instruments substantially concurrently with the consummation of the Project Comet Acquisition).

(k) Each of the Loan Parties party hereto shall have provided all documentation and other information to the Incremental Term A-2021 Lenders that is reasonably requested by the Incremental Term A-2021 Lenders no later than ten Business Days prior to the Closing Date to comply with applicable "knowyourcustomer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and the Beneficial Ownership Regulation, in each case, at least three Business Days prior to the Closing Date.

(l) To the extent invoiced at least three Business Days prior to the Closing Date, all accrued costs, fees and expenses due and payable to the Administrative Agent, the Project Comet Lead Arrangers (or their applicable Affiliates) and the Incremental Term A-2021 Lenders on the Closing Date shall have been paid (which amounts may be offset

against the proceeds of the initial borrowings under the Incremental Term A-2021 Facilities on the Closing Date), in each case, to the extent required to be paid (or reimbursed) on or before the Closing Date.

Notwithstanding anything to the contrary herein or in the provisions of the Credit Agreement or any other Loan Document, to the extent any security interest in any Collateral securing the Incremental Term A-2021 Facilities is not or cannot be provided and/or perfected on the Closing Date (other than the pledge and perfection of the security interests in the certificated equity interests of the Subsidiaries of the Company (to the extent required by this Agreement, the Credit Agreement or any other Loan Document) and other assets pursuant to which a Lien may be perfected solely by the filing of a financing statement under the Uniform Commercial Code) after the Company's use of commercially reasonable efforts to do so or without undue burden or expense, then the provision and/or perfection of a security interest in such Collateral shall not constitute a condition to the availability of the Incremental Term A-2021 Facilities on the Closing Date, but instead shall be required to be delivered in accordance with the terms of the Credit Agreement.

The Administrative Agent shall notify the Company and the Lenders (including the Incremental Term A-2021 Lenders) of the Closing Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, in the event that the foregoing conditions shall not have been satisfied on or before the Expiration Date (as defined below), this Agreement shall terminate and no transaction that is subject to the occurrence of the Closing Date (including the making of the Incremental Term A-2021 Loans) shall become effective. "Expiration Date" means the earliest of (a) the date that is five Business Days after the End Date (as defined in the Project Comet Acquisition Agreement as in effect on January 25, 2021 and as such End Date may be extended in accordance with the terms of the Project Comet Acquisition Agreement as in effect on January 25, 2021), (b) the closing of the Project Comet Acquisition with or without the use of the Incremental Term A-2021 Facilities and (c) the termination of the Project Comet Acquisition Agreement in accordance with the terms thereof prior to closing of the Project Comet Acquisition.

SECTION 9. Upfront Fees. The Company agrees to pay to the Incremental Term A-2021 Left Lead Arranger, for the ratable benefit of each Incremental Term A-2021 Lender as of the Closing Date, a non-refundable upfront fee (collectively, the "Incremental Term A-2021 Upfront Fees") in an amount as described on Schedule III hereto. The Incremental Term A-2021 Upfront Fees, in each case, will be fully earned and due and payable on the Closing Date.

SECTION 10. Expenses. The Company agrees to reimburse the Administrative Agent and the Project Comet Lead Arrangers for their respective reasonable out-of-pocket expenses in connection with this Agreement and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP.

SECTION 11. Effect of this Agreement. (a) Except as expressly set forth herein, this Agreement shall not by implication or otherwise limit, impair, constitute a

waiver of or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Credit Agreement or any of the other Loan Documents, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents in similar or different circumstances.

(b) On and after the Effective Date, any reference to the Credit Agreement in any Loan Document shall be deemed to be a reference to the Credit Agreement as modified by this Agreement and the Incremental Revolving Facility Agreement.

(c) This Agreement shall constitute a Loan Document and an Incremental Facility Agreement for all purposes of the Amended Credit Agreement and each other Loan Document.

SECTION 12. Reaffirmation; Further Assurances. The Company and each other Loan Party party hereto (collectively, the "Reaffirming Loan Parties") hereby acknowledges that it expects to receive substantial direct and indirect benefits as a result of this Agreement and the transactions contemplated hereby. Each Reaffirming Loan Party hereby consents to this Agreement and the transactions contemplated hereby, and hereby confirms its respective Guarantees (including in respect of the Incremental Term A-2021 Loans), pledges and grants of security interests (including in respect of the Incremental Term A-2021 Loans), as applicable, under each of the Loan Documents to which it is party, and agrees that, notwithstanding the effectiveness of this Agreement and the transactions contemplated hereby, such Guarantees, pledges and grants of security interests shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties (including in respect of the Incremental Term A-2021 Loans). Each of the Reaffirming Loan Parties hereby agrees to, and the Company hereby agrees to cause each Foreign Borrower to, provide to the Administrative Agent within 45 days of the Closing Date (or such later date as the Administrative Agent may agree in its reasonable discretion) reaffirmation documents substantially consistent with the Reaffirmation Documents delivered in connection with the effectiveness of the Credit Agreement as necessary to give effect to the foregoing and the transactions contemplated herein (including the conversion as contemplated by Section 4). Each of the Reaffirming Loan Parties further agrees to take any action that may be required or that is reasonably requested by the Administrative Agent to effect the purposes of this Agreement, the transactions contemplated hereby or the Loan Documents and hereby reaffirms its obligations under each provision of each Loan Document to which it is party.

SECTION 13. No Novation. This Agreement shall not extinguish the obligations for the payment of money outstanding under the Credit Agreement or discharge or release the Lien or priority of any Loan Document or any other security therefor or any guarantee thereof. Nothing herein contained shall be construed as a substitution or novation

of the Obligations outstanding under the Credit Agreement or instruments guaranteeing or securing the same, which shall remain in full force and effect, except as modified hereby or by instruments executed concurrently herewith. Nothing expressed or implied in this Agreement or any other document contemplated hereby shall be construed as a release or other discharge of any Loan Party under the Credit Agreement or any other Loan Document from any of its obligations and liabilities thereunder. The Credit Agreement and each of the other Loan Documents shall remain in full force and effect, until and except as modified hereby or thereby in connection herewith or therewith.

SECTION 14. Assignments. Notwithstanding anything to the contrary in the Credit Agreement, (a) except as set forth in Section 16(b) hereof, no Incremental Term A-2021 Lender shall be relieved, released or novated from its obligations hereunder (including its obligation to fund the Incremental Term A-2021 Facilities on the Closing Date) in connection with any assignment or participation of its Incremental Term A-2021 Commitments until after the funding under the Incremental Term A-2021 Facilities on the Closing Date has occurred, (b) no assignment or novation shall become effective with respect to all or any portion of any Incremental Term A-2021 Commitments until after the funding of the Incremental Term A-2021 Facilities on the Closing Date has occurred, and (c) unless the Company otherwise agrees in writing (which agreement may be granted or withheld in the Company's sole discretion), each Incremental Term A-2021 Lender shall retain exclusive control over all rights and obligations with respect to its Incremental Term A-2021 Commitments, including all rights with respect to consents, modifications, supplements, waivers and amendments, until after the funding under the Incremental Term A-2021 Facilities on the Closing Date has occurred.

SECTION 15. Applicable Law. **THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 16. Counterparts. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution", "signed", "signature", "delivery" and words of like import in or relating to this Agreement shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. "Electronic Signatures" means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

(b) It is acknowledged and agreed that, on or prior to February 24, 2021, the Company shall have the option of obtaining additional Tranche 1 Incremental Term A-2021 Commitments. Any such additional Tranche 1 Incremental Term A-2021 Commitments shall be evidenced by the delivery of a signature page from the person(s) providing such additional Tranche 1 Incremental Term A-2021 Commitments (such persons, the “Additional Tranche 1 Incremental Term A-2021 Lenders”) to the Company and the Administrative Agent and the delivery by the Company of an updated version of Schedule I hereto to the Administrative Agent, the Incremental Term A-2021 Left Lead Arranger and each other Tranche 1 Incremental Term A-2021 Lender that reflects only the addition of the Additional Tranche 1 Incremental Term A-2021 Lenders and their respective Tranche 1 Incremental Term A-2021 Commitments. Upon delivery of such signature pages and such updated Schedule I, each Additional Tranche 1 Incremental Term A-2021 Lender shall for all purposes be deemed to be a Tranche 1 Incremental Term A-2021 Lender holding Tranche 1 Incremental Term A-2021 Commitments as set forth on such updated Schedule I as if such Additional Tranche 1 Incremental Term A-2021 Lender was a signatory to this Agreement on the date hereof (and the Tranche 1 Incremental Term A-2021 Commitments of the Tranche 1 Incremental Term A-2021 Lenders party hereto on the date hereof shall not be affected). It is further acknowledged and agreed that the Tranche 1 Incremental Term A-2021 Commitments of the Tranche 1 Incremental Term A-2021 Lenders that are (or have an Affiliate that is) party to the Project Comet Commitment Letter are subject to reduction as set forth in the Arranger Fee Letter (as defined in the Project Comet Commitment Letter) (without reducing the Tranche 1 Incremental Term A-2021 Commitments of any other Tranche 1 Incremental Term A-2021 Lenders). In the event of any such reduction, the Incremental Term A-2021 Left Lead Arranger shall deliver an updated version of Schedule I hereto to the Administrative Agent, the Company and each Tranche 1 Incremental Term A-2021 Lender that reflects only the reduction of the Tranche 1 Incremental Term A-2021 Commitments of the applicable Tranche 1 Incremental Term A-2021 Lenders and their respective Tranche 1 Incremental Term A-2021 Commitments. Upon delivery of such updated Schedule I, each such applicable Tranche 1 Incremental Term A-2021 Lender shall for all purposes be deemed to hold Tranche 1 Incremental Term A-2021 Commitments as set forth on such updated Schedule I (and the Tranche 1 Incremental Term A-2021 Commitments of the other Tranche 1 Incremental Term A-2021 Lenders shall not be affected).

SECTION 17. Headings. Section headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 18. Incorporation by Reference. The submission to jurisdiction, service of process, venue, judgment currency, waiver of immunity, waiver of jury trial and electronic signature provisions set forth in the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

NCR CORPORATION,

by /s/ Timothy Oliver

Name: Timothy Oliver

Title: Chief Financial Officer

NCR INTERNATIONAL, INC.,

by /s/ Farzad Jalil

Name: Farzad Jalil

Title: Treasurer

[SIGNATURE PAGE TO INCREMENTAL TERM LOAN A FACILITY AGREEMENT]

JPMORGAN CHASE BANK, N.A.,  
as an Incremental Term A-2021 Lender and as  
Administrative Agent

By

/s/ Matthew Cheung

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Name: Mathew Cheung

Title: Vice President

[SIGNATURE PAGE TO INCREMENTAL TERM LOAN A FACILITY AGREEMENT]

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: BANK OF AMERICA, N.A.

By

/s/ Bryan Dobrovolski

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Name: Bryan Dobrovolski

Title: Director



SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: WELLS FARGO BANK, N.A.

By

/s/ Evan Waschitz

Name: Evan Waschitz

Title: Director

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: TRUIST BANK

By

/s/ Nicholas Hahn

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Name: Nicholas Hahn

Title: Managing Director

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: MUFG Bank, Ltd.

By

/s/ Joseph Siri

Name: Joseph Siri

Title: Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: PNC BANK, National Association

By

/s/ Andrew Fraser

Name: Andrew Fraser

Title: Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: ROYAL BANK OF CANADA

By

/s/ Kamran Khan

Name: Kamran Khan

Title: Authorized Signatory

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: CAPITAL ONE, NATIONAL ASSOCIATION

By

/s/ Elizabeth Masciopinto

Name: Elizabeth Masciopinto

Title: Duly Authorized Signatory

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: TD Bank, N.A.

By

/s/ Vijay Prasad

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Name: Vijay Prasad

Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender:

By

/s/ Jason Crowley

Name: Jason Crowley

Title: Vice President



SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: Fifth Third Bank, National Association

By

/s/ Dan Komitor

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Name: Dan Komitor

Title: Managing Director

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: SERVISFIRST BANK

By

/s/ Thomas Forsberg

Name: Thomas Forsberg

Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: Santander Bank, N.A.

By

/s/ Donna Cleary

Name: Donna Cleary

Title: Senior Director

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: KeyBank National Association

By

/s/ Karson Malecky

Name: Karson Malecky

Title: Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: U.S. Bank National Association

By

/s/ Steven L. Sawyer

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Name: Steven L. Sawyer

Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: BARCLAYS BANK PLC

By

/s/ Gill Skala

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Name: Gill Skala

Title: Director

Executed in New York

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: SUMITOMO MITSUI BANKING CORPORATION

By

/s/ Michael Maguire

Name: Michael Maguire

Title: Managing Director

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: HSBC Bank USA, National Association

By

/s/ Alyssa Champion

Name: Alyssa Champion

Title: Vice President



SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: REGIONS BANK

By

/s/ Annie Sherrill

Name: Annie Sherrill

Title: Authorized Signatory

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: People’s United Bank, N.A.

By

/s/ Darci Buchanan

Name: Darci Buchanan

Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: CANADIAN IMPERIAL BANK OF COMMERCE, NEW  
YORK BRANCH

By

/s/ Andrew R. Campbell

Name: Andrew R. Campbell

Title: Authorized Signatory

By

/s/ Farhad Merali

Name: Farhad Merali

Title: Authorized Signatory

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: MANUFACTURERS AND TRADERS TRUST COMPANY

By

/s/ Laurel LB Magruder

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Name: Laurel LB Magruder

Title: Group Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: THE NORTHERN TRUST COMPANY

By

/s/ Kimberly A. Crotty

\_\_\_\_\_  
Name: Kimberly A. Crotty

Title: Vice President

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: Siemens Financial Services, Inc.

By

/s/ David Montague

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Name: David Montague

Title: Authorized Signatory

By

/s/ Melissa Brown

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Name: Melissa Brown

Title: Authorized Signatory

SIGNATURE PAGE TO THE INCREMENTAL TERM LOAN A FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Term A-2021 Lender: Synovus Bank

By

/s/ Chandra Cockrell

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Name: Chandra Cockrell

Title: Corporate Banker

Name of Incremental Term A-2021 Lender: First National Bank of Omaha

By

/s/ Dale Ervin

Name: Dale Ervin

Title: Director



**Summary of Principal Terms and Conditions for  
Incremental Term A-2021 Facilities**

[See Attached.]

NCR Corporation  
Incremental Term-A 2021 Facilities  
Summary of Principal Terms and Conditions

Set forth below is a summary of the principal terms and conditions for the Incremental Term A-2021 Facilities. Capitalized terms used but not defined shall have the meanings set forth in the Incremental Term Loan A Facility Agreement to which this Exhibit I is attached (the “Incremental Facility Agreement”).

<u>Borrower:</u>	NCR Corporation, a Maryland corporation (the “ <u>Borrower</u> ”).
<u>Administrative Agent and Collateral Agent:</u>	JPMorgan Chase Bank, N.A. will continue to act as sole administrative agent and collateral agent under the Amended Credit Agreement, including with respect to the Incremental Term A-2021 Facilities (as defined below) (in such capacities, the “ <u>Administrative Agent</u> ”).
<u>Joint Lead Arrangers and Joint Bookrunners:</u>	BofA Securities, Inc. (or any of its designated affiliates), JPMorgan Chase Bank, N.A., Wells Fargo Securities, LLC, Truist Securities, Inc., MUFG Bank, Ltd., PNC Capital Markets LLC, RBC Capital Markets, Capital One, N.A., TD Securities (USA) LLC and Fifth Third Bank, National Association (in such capacities, collectively, the “ <u>Incremental Term A-2021 Lead Arrangers</u> ”). <sup>2</sup>
<u>Co-Syndication Agents:</u>	BofA Securities, Inc. (or any of its designated affiliates), Wells Fargo Securities, LLC, Truist Securities, Inc., MUFG Bank, Ltd., PNC Capital Markets LLC, RBC Capital Markets, Capital One, N.A., TD Securities (USA) LLC and Fifth Third Bank, National Association.
<u>Co-Documentation Agents:</u>	Santander Bank, N.A., KeyBanc Capital Markets Inc., Citizens Bank, N.A., U.S. Bank National Association, Barclays Bank PLC and Sumitomo Mitsui Banking Corporation.

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<sup>2</sup> RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.

Incremental Term A-2021 Facilities:

\$1,455,000,000 (as such amount may be increased or decreased as described below) of senior secured credit facilities, comprised of:

(a) a senior secured incremental term loan facility (the “Tranche 1 Incremental Term-A 2021 Facility” and the loans thereunder, the “Tranche 1 Incremental Term-A 2021 Loans”) consisting of Incremental Term A Loans (as defined in the Credit Agreement) in an aggregate principal amount equal to \$1,255,000,000 (as such amount may be increased or decreased in accordance with the terms of the Incremental Facility Agreement), to be established as an “Incremental Term Facility” under and as defined in the Credit Agreement; and

(b) a senior secured incremental term loan facility (the “Tranche 2 Incremental Term A-2021 Facility” and the loans thereunder, the “Tranche 2 Incremental Term A-2021 Loans”; the Tranche 1 Incremental Term A-2021 Facility and the Tranche 2 Incremental Term A-2021 Facility, collectively, the “Incremental Term A-2021 Facilities”, and the Tranche 1 Incremental Term A-2021 Loans and the Tranche 2 Incremental Term A-2021 Loans, collectively, the “Incremental Term A-2021 Loans”) consisting of Incremental Term A Loans (as defined in the Credit Agreement) in an aggregate principal amount equal to \$200,000,000, to be established as an “Incremental Term Facility” under and as defined in the Credit Agreement, which Tranche 2 Incremental Term A-2021 Loans shall convert into Incremental Revolving Commitments (as defined in the Credit Agreement) after the Closing Date and the funding of the Tranche 2 Incremental Term A-2021 Loans on such date as set forth and subject to the conditions in the Incremental Facility Agreement.

The Tranche 1 Incremental Term-A 2021 Loans and the Tranche 2 Incremental Term A-2021 Loans shall each constitute a separate “class” of loans from the existing Term Loans (as defined in the Credit Agreement) under the Credit Agreement.

Maturity and Amortization:

The Incremental Term-A 2021 Loans will mature on the earlier of (a) the date that is five years after the Closing Date and (b) the date that is 91 days prior to the Term Maturity Date (as defined in the Credit Agreement as in effect on January 25, 2021) (such date, the “Incremental Term A-2021 Maturity Date”); provided that if such date is not a business day, the Incremental Term A-2021 Maturity Date shall be the next preceding business day.

The Incremental Term A-2021 Loans will be repayable in equal quarterly installments, beginning on the last business day of the first full fiscal quarter after the Closing Date, in annual amounts equal to 7.5% of the original amount of the Tranche 1 Incremental Term A-2021 Loans or the Tranche 2 Incremental Term A-2021 Loans, as the case may be, with the unpaid balance being payable on the Incremental Term A-2021 Maturity Date.

Availability:

The full amount of the Incremental Term A-2021 Loans must be drawn by the Borrower in a single drawing on the Closing Date. Incremental Term-A 2021 Loans that are repaid or prepaid may not be reborrowed.

Use of Proceeds:

The proceeds of the Incremental Term A-2021 Loans made on the Closing Date shall be used to finance all or a portion of the Project Comet Transactions and to pay Project Comet Transaction Costs, and any remaining proceeds of the Incremental Term A-2021 Loans shall be used for working capital and general corporate purposes of the Borrower and its subsidiaries and for any other purpose not prohibited by the Credit Agreement or the Incremental Facility Agreement.

Additional Incremental Facilities:

As set forth in the Credit Agreement.

Fees and Interest Rates:

As set forth on Annex I hereto.

Voluntary Prepayments:

Incremental Term A-2021 Loans may be prepaid, in whole or in part without premium or penalty, in minimum amounts set forth in the Credit Agreement, at the option of the Borrower at any time upon same day notice not later than 12:00 noon, subject to payment of breakage costs in connection with any prepayment of Eurocurrency (as defined in the Credit Agreement) loans prior to the last day of the relevant interest period, in accordance with the terms of the Credit Agreement; provided that, in the case of any prepayment to be made within the last two business days of any LIBOR (as defined in Annex I hereto) interest period, such notice shall be required to be delivered two business days in advance; provided further that if the Borrower delivers an Interest Election Request (as defined in the Credit Agreement) in respect of the conversion or continuation of any borrowing of Incremental Term A-2021 Loans, such borrowing shall not be prepaid until the interest period then applicable to such borrowing has expired. Voluntary prepayments of the Incremental Term A-2021 Loans shall be applied to remaining amortization payments as directed by the Borrower.

Mandatory Prepayments:

As set forth in the Credit Agreement, with the Incremental Term A-2021 Loans participating in all mandatory prepayments under the Amended Credit Agreement on a pro rata basis with the existing Term Loans (as defined in the Credit Agreement) under the Credit Agreement.

Guarantors:

As set forth in the Credit Agreement.

Collateral:

The Incremental Term A-2021 Facilities and all extensions of credit thereunder will be secured by the Collateral (as defined in the Credit Agreement) on a pari passu basis with the other Loan Document Obligations (as defined in the Credit Agreement).

Conditions on the Closing Date:

As set forth in Section 8 of the Incremental Facility Agreement.

Incremental Term A-2021 Facilities Documentation:

The Incremental Term A-2021 Facilities will be documented under the Incremental Facility Agreement, it being understood and agreed that the Borrower and the Administrative Agent will effect such changes to the Credit Agreement (in the form of an amendment and restatement of the Credit Agreement or a “conformed copy” thereof) as may be necessary or appropriate, in the reasonable discretion of the Borrower and the Administrative Agent, to give effect to the Incremental Term A-2021 Facilities on the terms and conditions set forth herein and in the Incremental Facility Agreement, including, without limitation, by amending the Credit Agreement to incorporate certain updated provisions relating to the replacement of LIBOR for the Incremental Term A-2021 Facilities in the form attached as Exhibit II to the Incremental Facility Agreement.

Financial Covenant:

As set forth in the Credit Agreement, it being understood and agreed that, effective as of the Closing Date, the provisions of Section 6.12 of the Credit Agreement will be for the benefit of the Revolving Lenders (as defined in the Credit Agreement) and the Incremental Term A-2021 Lenders and that, notwithstanding the provisions of Section 9.02 of the Credit Agreement, amendments and waivers of such Section 6.12 will require the consent of a Majority in Interest (as defined in the Credit Agreement) of the Revolving Lenders and the Incremental Term A-2021 Lenders, voting together for such purpose.

Representations and Warranties:

As set forth in the Credit Agreement.

Affirmative Covenants:

As set forth in the Credit Agreement.

Negative Covenants:

As set forth in the Credit Agreement.

Events of Default:

As set forth in the Credit Agreement.

Assignments and Participations:

As set forth in the Credit Agreement.

Voting and Other Miscellaneous Provisions:

As set forth in the Credit Agreement; provided that the Credit Agreement will be amended as set forth in the Incremental Facility Agreement to incorporate customary European Union and United Kingdom bail-in provisions in the form attached as Exhibit II to the Incremental Facility Agreement.

Governing Law and Forum:

New York; provided, however, that the interpretation of the definition of “Material Adverse Effect” (as defined in the Acquisition Agreement as in effect on January 25, 2021), whether such a Material Adverse Effect shall have occurred, the determination of the accuracy of the Specified Project Comet Acquisition Agreement Representations and whether as a result of any inaccuracy thereof the Borrower or any of its affiliates has the right to terminate its respective obligations under the Project Comet Acquisition Agreement and whether or not the Project Comet Acquisition has been consummated shall be construed in accordance with the laws of the State of Delaware without regard to conflict of law principles that would result in the application of the laws of another jurisdiction.

Counsel for Incremental Term A-2021 Lead Arrangers and Administrative Agent:

Cravath, Swaine & Moore LLP.

**INTEREST AND CERTAIN FEES**

Interest Rates: Incremental Term A-2021 Loans will bear interest, at the option of the Borrower, at LIBOR or ABR (as defined below), plus, in each case, the interest rate margins applicable under the leverage-based pricing grid set forth below (the "Pricing Grid"); provided that (a) until the delivery of financial statements for the first full fiscal quarter following the Closing Date, pricing level VI shall apply, and (b) if any financial statements or any compliance certificates are not delivered when required pursuant to the Amended Credit Agreement, pricing level VII shall apply until the delivery thereof.

The Borrower may elect interest periods of 1, 3 or 6 months.

As used herein:

"ABR" means the highest of (i) the rate of interest last quoted by the Wall Street Journal as the "Prime Rate", (ii) the federal funds effective rate from time to time (but in any event not less than zero) plus 0.50%, (iii) the LIBOR rate applicable on any day for an interest period of one month plus 1.00% and (iv) 1.00% per annum.

"LIBOR" means the London interbank offered rate (determined by reference to the Reuters screen) (but in any event not less than 0.00% per annum), adjusted at all times for statutory reserves and determined as provided in the Credit Agreement; provided that the Credit Agreement will be amended as set forth in the Incremental Facility Agreement to incorporate certain updated provisions relating to the replacement of LIBOR for the Incremental Term A-2021 Facilities in the form attached as Exhibit II to the Incremental Facility Agreement.

Interest Payment Dates: As set forth in the Credit Agreement.



Upfront Fees: A non-refundable upfront fee will be payable on the Closing Date to each Incremental Term A-2021 Lender on the Closing Date in accordance with Section 9 of the Incremental Facility Agreement.

Default Rate: As set forth in the Credit Agreement.

Rate and Fee Basis: As set forth in the Credit Agreement.

Pricing Grid

Level	Leverage Ratio	ABR Spread	Eurocurrency Spread
I	Less than 1.50 to 1.00	0.25%	1.25%
II	Greater than or equal to 1.50 to 1.00, but less than 2.00 to 1.00	0.50%	1.50%
III	Greater than or equal to 2.00 to 1.00, but less than 3.00 to 1.00	0.75%	1.75%
IV	Greater than or equal to 3.00 to 1.00, but less than 3.50 to 1.00	1.00%	2.00%
V	Greater than or equal to 3.50 to 1.00, but less than 4.25 to 1.00	1.25%	2.25%
VI	Greater than or equal to 4.25 to 1.00, but less than 4.75 to 1.00	1.50%	2.50%
VII	Greater than or equal to 4.75 to 1.00	1.75%	2.75%

**Certain Amendments to the Credit Agreement**

[See Attached.]

CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, and (III) that certain Third Amendment, dated as of January 22, 2021), and as further amended as of February 4, 2021 (this “Agreement”), among NCR CORPORATION, a Maryland corporation (the “Company”), the FOREIGN BORROWERS party hereto, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as the Administrative Agent.

## **PRELIMINARY STATEMENTS**

The Company, certain of the Lenders (such term and other capitalized terms used in these preliminary statements being defined in Section 1.01 hereof) and the Administrative Agent are party to the Existing Credit Agreement, and, upon satisfaction of the conditions set forth herein, have agreed, together with the Foreign Borrowers and the other Lenders, to amend and restate the Existing Credit Agreement in the form of this Agreement.

The Lenders have indicated their willingness to lend, and the Issuing Banks have indicated their willingness to issue Letters of Credit, in each case, on the terms and subject to the conditions set forth herein.

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

### ARTICLE I

#### Definitions

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

“ABR”, when used in reference to any Loan or Borrowing, means such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Alternate Base Rate.

“Accepting Lenders” has the meaning set forth in Section 2.21(a).

“Acquired Company Representations” means, with respect to any Limited Condition Acquisition, the representations and warranties made in the acquisition agreement with respect to such Limited Condition Acquisition that are material to the interests of the Lenders, but only to the extent that the Company or any of its Affiliates has the right under such acquisition agreement not to consummate such Limited Condition Acquisition, or to terminate the obligations of the Company or any of its Affiliates under such acquisition agreement, as a result of a breach of such representations and warranties.

“Adjusted Consolidated Net Income” means, for any period, Consolidated Net Income for such period; provided, however, that there shall not be included in such Adjusted Consolidated Net Income for any such period:

(a) any gain (or loss) realized upon the sale or other disposition of any assets of the Company, its consolidated Subsidiaries or any other Person (including pursuant to any sale-and-leaseback arrangement) which are not sold or otherwise disposed of in the ordinary course of business and any gain (or loss) realized upon the sale or other disposition of any Equity Interest of any Person;

(b) extraordinary gains or losses;

(c) the cumulative effect of a change in accounting principles;

(d) any net after-tax gain (or loss) attributable to the early retirement or conversion of Indebtedness;

(e) amortization of non-cash pension expenses and any after-tax one-time gains or losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains and losses on pension plans and settlement/curtailment gains and losses thereon;

(f) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP;

(g) the effects of adjustments in the Company’s consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to any acquisition that is consummated after September 17, 2012, net of taxes; and

(h) any increase to reserves for Environmental Liabilities except to the extent cash payments are made in respect of such Environmental Liabilities from such increase.

“Adjusted Eurocurrency Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) for any Eurocurrency Borrowing denominated in Dollars, the LIBO Rate for such Interest Period multiplied by the Statutory Reserve Rate, (b) for any Eurocurrency Borrowing denominated in Sterling, the LIBO Rate for such Interest Period, or (c) for any Eurocurrency Borrowing denominated in Euros, the EURIBO Rate for such Interest Period.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent hereunder and under the other Loan Documents (or, as applicable, such Affiliates thereof as it shall from time to time designate for the purpose of performing its

obligations hereunder in such capacity, including J.P. Morgan Europe Limited) and its permitted successors in such capacity as provided in Article VIII.

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

“Affected Class” has the meaning set forth in Section 2.21(a).

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

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly through one or more intermediary Controlling Persons Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Revolving Commitment” means the sum of the Revolving Commitments of all the Revolving Lenders.

“Aggregate Revolving Exposure” means the sum of the Revolving Exposures of all the Revolving Lenders.

“Agreement” has the meaning set forth in the preamble hereto.

“Agreement Currency” has the meaning set forth in Section 9.21(b).

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1.00% per annum and (c) the Adjusted Eurocurrency Rate on such day (or, if such day is not a Business Day, the immediately preceding Business Day) for a deposit in Dollars with a maturity of one month plus 1.00% per annum. For purposes of clause (c) above, the Adjusted Eurocurrency Rate for any day shall be based on the applicable Screen Rate (or, if the applicable Screen Rate is not available for such one-month maturity, the Interpolated Screen Rate, if available) at approximately 11:00 a.m., London time, on such day for deposits in Dollars with a maturity of one month. Notwithstanding the foregoing, if the Alternate Base Rate, determined as provided above, would otherwise be less than zero, then the Alternate Base Rate shall be deemed to be zero for all purposes of this Agreement. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate, as the case may be. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.13 **(for the avoidance of doubt, solely in the case of Incremental Term A-2021 Loans and Dollar-denominated Revolving Loans, only until the Benchmark Replacement has been determined pursuant to Section 2.13(a)(ii))**, then the Alternate Base Rate shall be the greater of the rates referred to in clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Alternative Currency Equivalent” means, for any amount of any Euros or Sterling, at the time of determination thereof, (a) if such amount is expressed in Euros or Sterling, such amount and (b) if such amount is expressed in Dollars, the equivalent of such amount in such Euros or Sterling determined by using the Exchange Rate with respect to Euros or Sterling, as the case may be, in effect for such amount on such date.

“Ancillary Document” has the meaning assigned to it in Section 9.06(b).

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or any of its Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

“Applicable Creditor” has the meaning set forth in Section 9.21(b).

“Applicable Percentage” means, at any time, with respect to any Revolving Lender, the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at such time, subject to adjustment as required to give effect to any reallocation of LC Exposure made pursuant to paragraph (c) or (d) of Section 2.19 or the penultimate paragraph of Section 2.19. If the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments and to any Revolving Lender’s status as a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, (a) with respect to any Term Loan, (i) 1.50% per annum, in the case of an ABR Loan, or (ii) 2.50% per annum, in the case of a Eurocurrency Loan, (b) with respect to any Incremental Term Loan of any Series, the rate per annum specified in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series and (c) with respect to any Revolving Loan that is an ABR Loan or a Eurocurrency Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, respectively, the applicable rate per annum set forth below under the caption “ABR Spread”, “Eurocurrency Spread” or “Commitment Fee Rate”, respectively, based upon the Leverage Ratio as of the end of the fiscal quarter of the Company for which consolidated financial statements have theretofore been most recently delivered pursuant to Sections 5.01(a) or 5.01(b) of this Agreement; provided that from the Effective Date until delivery of the consolidated financial statements pursuant to Section 5.01(b) for the fiscal quarter ended September 30, 2019, the Applicable Rate in respect of any Revolving Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, shall be determined by reference to Level III:

Level	Leverage Ratio	ABR Spread	Eurocurrency Spread	Commitment Fee Rate
I	Less than 1.50 to 1.0	0.25%	1.25%	0.150%
II	Greater than or equal to 1.50 to 1.0, but less than 2.00 to 1.0	0.50%	1.50%	0.200%
III	Greater than or equal to 2.00 to 1.0, but less than 3.00 to 1.0	0.75%	1.75%	0.250%
IV	Greater than or equal to 3.00 to 1.0, but less than 3.50 to 1.0	1.00%	2.00%	0.300%
V	Greater than or equal to 3.50 to 1.0	1.25%	2.25%	0.350%

For purposes of the foregoing, each change in the Applicable Rate resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the Business Day following the date of delivery to the Administrative Agent pursuant to Sections 5.01(a) or 5.01(b) of the consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the foregoing, the Applicable Rate shall be based on the rates per annum set forth in Category V if the Company fails to deliver the consolidated financial statements required to be delivered pursuant to Sections 5.01(a) or 5.01(b) or any Compliance Certificate required to be delivered pursuant hereto, in each case within the time periods specified herein for such delivery, during the period commencing on and including the day of the occurrence of a Default resulting from such failure and until the delivery thereof. Notwithstanding anything to the contrary in this definition, the determination of the Applicable Rate will be subject to the provisions of Section 2.12(f).

“Applicable Ticking Fee Rate” means, (i) at any time on or prior to the date that is 30 days after the Effective Date, a rate per annum equal to 0.00%, (ii) at any time after the date that is 30 days after the Effective Date and on or prior to the date that is 60 days after the Effective Date, a rate per annum equal to 50% of the Applicable Rate for Term Loans that are Eurocurrency Loans and (iii) at any time after the date that is 60 days after the Effective Date, a rate per annum equal to the Applicable Rate for Term Loans that are Eurocurrency Loans.

“Applicant Borrower” has the meaning set forth in Section 2.23(a).

“Applicant Borrower Amendments” has the meaning set forth in Section 2.23(a).

“Approved Commercial Bank” means a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000.

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit

in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arrangers” means BofA Securities, Inc., J.P. Morgan Chase Bank, N.A., Wells Fargo Securities, LLC, MUFG Bank, Ltd., PNC Bank, National Association, RBC Capital Markets, Suntrust Robinson Humphrey, Inc. and Capital One, National Association, in their capacities as joint lead arrangers and joint bookrunners for the credit facilities provided for herein.

“Article 55 BRRD” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee, with the consent of any Person whose consent is required by Section 9.04, and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

“Available Amount” means, as of any day, the excess, if any, of:

(a) the sum of (i) \$50,000,000, plus (ii) 50% of cumulative Adjusted Consolidated Net Income from July 1, 2012; over

(b) the amount of all Restricted Payments made in reliance on Section 6.08(a)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(a)(vi) of this Agreement and all payments made in reliance on Section 6.08(b)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(b)(vi) of this Agreement.

**“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement 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 clause (vi) of Section 2.13(a).**

**“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 ~~which has implemented, or which at any time implements,~~**implementing Article 55 BRRD of Directive 2014/59 EU of the**



European Parliament and of the Council of the European Union, the ~~relevant~~ implementing law ~~or~~, regulation ~~as~~, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule ~~from time to time~~; and

(b) ~~in relation to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation 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).~~

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy”.

“Bankruptcy Event” means, with respect to any Person, that such Person has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, examiner, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority, so long as such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any agreements made by such Person.

“Benchmark” means, initially, the Eurocurrency Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the Eurocurrency Rate or the 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 clause (ii) or clause (iii) of Section 2.13(a).

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; provided that, in the case of any Revolving Loan denominated in Euros or Sterling, “Benchmark Replacement” shall mean the alternative set forth in (c) below:

(a) the sum of: (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment;

(b) the sum of: (i) Daily Simple SOFR and (ii) the related Benchmark Replacement Adjustment;

(c) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in the applicable currency at such time and (ii) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (a), such Unadjusted Benchmark Replacement is 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; provided further that, solely with respect to an Incremental Term A-2021 Loan or Revolving Loan denominated in Dollars, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment, as set forth in clause (a) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (a), (b) or (c) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(a) for purposes of clauses (a) and (b) of the definition of “Benchmark Replacement”, the first alternative set forth in the order below that can be determined by the Administrative Agent:

(i) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(ii) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest

Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(b) for purposes of clause (c) of the definition of “Benchmark Replacement”, the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, for the applicable Corresponding Tenor giving due consideration to (i) 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 on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable currency at such time;

provided that, in the case of clause (a) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

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

“Benchmark Replacement Date” means, with respect to any Benchmark, the earliest to occur of the following events with respect to such 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 of such Benchmark (or such component thereof);

(b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the date of the public statement or publication of information referenced therein;

(c) in the case of a Term SOFR Transition Event, the date that is 30 days after the date a Term SOFR Notice is provided to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, pursuant to Section 2.13(a)(iii); or

(d) in the case of an Early Opt-In Election, the sixth Business Day after the date notice of such Early Opt-In Election is provided to the applicable Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth Business Day after the date notice of such Early Opt-In Election is provided to such Lenders, written notice of objection to such Early Opt-In Election from Lenders comprising the Majority in Interest of the Incremental Term A-2021 Lenders and/or of the Revolving Lenders, as applicable.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) 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, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such 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 of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(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 Board of Governors, the NYFRB, 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), in each case which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(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 of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Unavailability Period” means, with respect to any Benchmark, the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clause (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Sections 2.13(a) and (b) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13(a).

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

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

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

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

“Blocking Regulation” means Regulation (EU) No 2271/96 of the European Parliament and of the Council of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based on or resulting therefrom.

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

“Borrower” means each of the Company and each Foreign Borrower.

“Borrower Agent” has the meaning set forth in Section 1.07.

“Borrowing” means Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” means (a) in the case of a Borrowing denominated in Dollars, \$5,000,000, (b) in the case of a Borrowing denominated in Euros, €5,000,000, and (c) in the case of a Borrowing denominated in Sterling, £5,000,000.

“Borrowing Multiple” means (a) in the case of a Borrowing denominated in Dollars, \$1,000,000, (b) in the case of a Borrowing denominated in Euros, €1,000,000, and (c) in the case of a Borrowing denominated in Sterling, £1,000,000.

“Borrowing Request” means a written request by a Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit B or any other form approved by the Administrative Agent.

“Brazil CMA” means the Contract Manufacturing Agreement dated as of July 26, 2011, by and between NCR Global Solutions Group, Limited, an Irish limited company, and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Shareholders’ Agreement” means the Shareholders’ Agreement dated as of October 4, 2011, by and among the Company, NCR Manaus, Scopus Industrial and Scopus Tecnologia, including the schedules and exhibits thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Subscription Agreement” means the Equity Subscription Agreement dated as of July 26, 2011, by and among the Company, Scopus Industrial, Scopus Tecnologia and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Transaction Documents” means the Brazil CMA, the Brazil Shareholders’ Agreement and the Brazil Subscription Agreement.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, (a) when used in connection with a Eurocurrency Loan in any currency, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in such currency in the London interbank market or not open for general business in London, and (b) when used in connection with any date for the payment or purchase of Euros, the term

“Business Day” shall also exclude any day on which TARGET2 is not open for the settlement of payments in Euro or banks are not open for general business in London.

“Capital Expenditures” means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Company and its consolidated Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Company and its consolidated Subsidiaries for such period prepared in accordance with GAAP, excluding (i) any such expenditures made to restore, replace or rebuild assets to the condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, condemnation or similar proceeding, (ii) any such expenditures constituting Permitted Acquisitions or any other acquisition of all the Equity Interests in, or all or substantially all the assets of (or the assets constituting a business unit, division, product line or line of business of), any Person and (iii) any such expenditures in the form of a substantially contemporaneous exchange of similar property, plant, equipment or other capital assets, except to the extent of cash or other consideration (other than the assets so exchanged), if any, paid or payable by the Company or its consolidated Subsidiaries and (b) such portion of principal payments on Capital Lease Obligations made by the Company or any of its Subsidiaries during such period as is attributable to additions to property, plant and equipment that have not otherwise been reflected on the consolidated statement of cash flows as additions to property, plant and equipment for such period.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person; subject to Section 1.04, the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. For purposes of Section 6.02, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Cash Consideration” has the meaning set forth in Section 6.05.

“CFC” means (a) each Person that is a “controlled foreign corporation” for purposes of the Code, (b) each subsidiary of any such controlled foreign corporation, (c) any Foreign Subsidiary which is an entity disregarded as separate from its owner under Treasury Regulation 301.7701-3 and (d) any CFC Holdco.

“CFC Holdco” means a Subsidiary that has no material assets other than Equity Interests in one or more CFCs (including for this purpose, any debt or other instrument treated as equity for U.S. Federal income tax purposes), any Indebtedness owed to it (or so treated for U.S. Federal income tax purposes) by any CFC and rights to Intellectual Property relating solely to and utilized solely by such CFCs (but in respect of which no significant royalty, license or similar fees are paid by such CFCs) and assets incidental thereto.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the Effective Date), other than an employee benefit plan or related trust of the Company or of the Company and any Subsidiaries, of Equity Interests in the Company representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Company; (b) persons who were (i) directors of the Company on the Effective Date, (ii) nominated or approved by the board of directors of the Company, (iii) nominated or approved by the board of directors of the Company as director candidates prior to their election to the board of directors of the Company or (iv) appointed by directors who were directors of the Company on the Effective Date or were nominated or approved as provided in clause (ii) or clause (iii) above ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of the Company; or (c) the occurrence of any “change in control” (or similar event, however denominated) with respect to the Company under and as defined in any indenture or other agreement or instrument evidencing, governing the rights of the holders of or otherwise relating to any Material Indebtedness of the Company or under and as defined in the Existing Preferred Documentation.

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued 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, implemented or issued.

“Charges” has the meaning set forth in Section 9.13.

“Class”, when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Term Loans, Incremental Term Loans of any Series or Revolving Loans, (b) any Commitment, refers to whether such Commitment is an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or a Revolving Commitment and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class. From and after the funding of the Delayed Draw Term Loans, if any, the Delayed Draw Term Loans and the Initial Term Loans shall constitute a single Class of Term Loans.

“Code” means the Internal Revenue Code of 1986.

“Collateral” means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Security Documents as



security for the Obligations; provided that the Collateral shall in no event include any Excluded Assets.

“Collateral Agreement” means the Amended and Restated Guarantee and Collateral Agreement among the Borrowers, the other Loan Parties and the Administrative Agent, as amended and restated as of March 31, 2016.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Administrative Agent shall have received from each Borrower and each Designated Subsidiary either (i) a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Person or (ii) in the case of any Person that becomes a Designated Subsidiary after the Effective Date (including by ceasing to be an Excluded Subsidiary), a supplement to the Collateral Agreement, in substantially the form specified therein, duly executed and delivered on behalf of such Person, together with documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01 with respect to such Designated Subsidiary, in each case, if reasonably requested by the Administrative Agent;

(b) all Equity Interests in any Subsidiary owned by or on behalf of any Guarantor Loan Party shall have been pledged pursuant to the Collateral Agreement and, in the case of Equity Interests in any Foreign Subsidiary, where the Administrative Agent so requests in connection with the pledge of such Equity Interests, a Foreign Pledge Agreement (provided that, in each case, the Guarantor Loan Parties shall not be required to pledge 66 $\frac{2}{3}$ % or more of the outstanding voting Equity Interests in any CFC), and the Administrative Agent shall, to the extent required by the Collateral Agreement, have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c)(i) all Indebtedness of the Company and each Subsidiary and (ii) all Indebtedness (other than Permitted Investments in non-certificated or book entry form) of any other Person in a principal amount of \$10,000,000 or more that, in each case, is owing to any Guarantor Loan Party shall be evidenced by a promissory note (in each case, which may take the form of an intercompany note) and shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements, required by Requirements of Law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the term “Collateral and Guarantee Requirement”, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording (or the

Administrative Agent shall have been authorized to make such filing, registration or recording); and

(e) each Loan Party shall have obtained all consents and approvals required to be obtained by it at such time in connection with the execution and delivery of all Security Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) the foregoing provisions of this definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of legal opinions or other deliverables with respect to, particular assets of the Guarantor Loan Parties, or the provision of Guarantees by any Subsidiary, if, and for so long as the Administrative Agent and the Company reasonably agree that the cost of creating or perfecting such pledges or security interests in such assets, or obtaining such legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any adverse tax consequences to the Company and the Subsidiaries, including any potential Section 956 Impact), shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (b) Liens required to be granted from time to time pursuant to the term “Collateral and Guarantee Requirement” shall be subject to exceptions and limitations set forth in the Security Documents and, to the extent appropriate in the applicable jurisdiction, as reasonably agreed between the Administrative Agent and the Company and (c) in no event shall the Collateral include any Excluded Assets. The Administrative Agent may grant extensions of time for the creation and perfection of security interests in, or the obtaining of, any applicable legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Subsidiary (including, without limitation, extensions beyond the Effective Date, as required pursuant to Section 5.14 or in connection with assets acquired, or Subsidiaries formed or acquired, after the Effective Date) where it determines that such action cannot be accomplished, or undue effort or expense would be required to accomplish such action, by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents. Any such extensions granted by the Administrative Agent under the Existing Credit Agreement will continue to be effective in accordance with the terms thereof for purposes hereof.

“Commitment” means a Revolving Commitment, an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or any combination thereof (as the context requires).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein that is distributed to the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to Section 9.01, including through the Platform.

“Company” has the meaning set forth in the preamble hereto.

“Compliance Certificate” means a Compliance Certificate substantially in the form of Exhibit E or any other form approved by the Administrative Agent.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period, plus

(a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of

(i) consolidated interest expense for such period (including imputed interest expense in respect of Capital Lease Obligations);

(ii) provision for taxes based on income, profits or losses, including foreign withholding taxes during such period;

(iii) all amounts attributable to depreciation and amortization for such period;

(iv) any extraordinary losses for such period, determined on a consolidated basis in accordance with GAAP;

(v) any Non-Cash Charges for such period;

(vi) any losses attributable to early extinguishment of Indebtedness or obligations under any Hedging Agreement other than those relating to foreign currencies;

(vii) Pro Forma Adjustments in connection with Material Acquisitions;

(viii) nonrecurring integration expenses in connection with acquisitions (including severance costs, retention payments, change of control bonuses, relocation expenses and similar integration expenses);

(ix) one-time out-of-pocket transactional costs and expenses relating to Permitted Acquisitions, Investments outside the ordinary course of business, and Dispositions (regardless of whether consummated), including legal fees, advisory fees, and upfront financing fees;

(x) amortization of non-cash pension expenses and any after-tax one-time losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market losses on pension plans and settlement/curtailment losses thereon;

(xi) out-of-pocket costs and expenses relating to restructurings (including a reduction in force), consolidation, separation or closure of facilities and cost

saving initiatives, in each case, undertaken out of the ordinary course of business, and (without duplication) any non-cash charges or reserves taken in connection therewith; provided that each such restructuring, consolidation, separation or closure of facilities or cost saving initiative has been specifically approved by the board of directors of the Company or by both the chief executive officer and the chief financial officer of the Company;

(xii) out-of-pocket costs and expenses arising from litigation in respect of discontinued operations in an amount not to exceed \$15,000,000 for any Test Period; and

(xiii) unrealized losses during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided that any cash payment made with respect to any Non-Cash Charges added back in computing Consolidated EBITDA for any prior period pursuant to clause (a)(v) above (or that would have been added back had this Agreement been in effect during and after such prior period), other than any cash payments made after the Effective Date in respect of obligations relating to the Fox River, Kalamazoo and Dayton landfill discontinued operations not exceeding, in the aggregate for all periods, the amount of the reserves for such obligations reflected in the Borrower’s financial statements for the fiscal quarter ending June 30, 2011, shall be subtracted in computing Consolidated EBITDA for the period in which such cash payment is made; provided, further, that the aggregate amount of all amounts under clauses (vii), (viii), (ix) and (xi) that increase Consolidated EBITDA in any Test Period (including, for avoidance of doubt, in connection with any calculation made hereunder on a Pro Forma Basis) shall not exceed, and shall be limited to, 15% of Consolidated EBITDA in respect of such Test Period (calculated after giving effect to such adjustments and with no carryover of unused amounts into any subsequent period); and minus

(b) without duplication and to the extent included in determining such Consolidated Net Income,

(i) any extraordinary gains for such period, determined on a consolidated basis in accordance with GAAP;

(ii) any non-cash gains for such period, including any gains attributable to the early extinguishment of Indebtedness;

(iii) any net income tax benefit for such period determined on a consolidated basis in accordance with GAAP;

(iv) any gains attributable to the early extinguishment of obligations under any Hedging Agreement other than those relating to foreign currencies;

(v) after-tax one-time gains associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains on pension plans and settlement/curtailment gains thereon; and

(vi) unrealized gains during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided, further that Consolidated EBITDA for any period shall be calculated so as to exclude (without duplication of any adjustment referred to above) the effect of:

(A) the cumulative effect of any changes in GAAP or accounting principles applied by management; and

(B) purchase accounting adjustments.

Notwithstanding the foregoing (but without duplication of any other adjustment referred to above), Consolidated EBITDA will be calculated (i) so as to exclude mark-to-market gains and losses on Plans and Foreign Pension Plans and settlement/curtailment gains and losses relating to such plans, and (ii) to give effect to Mark-to-Market Pension Accounting.

“Consolidated Net Income” means, for any period, the net income or loss of the Company and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income of any Person (other than the Company) that is not a consolidated Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Company or, subject to clauses (b) and (c) below, any other consolidated Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary (other than the Company or any Subsidiary Loan Party) to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Subsidiary (i) is not permitted (A) without any prior approval of any Governmental Authority which, to the actual knowledge of the Company, would be required and that has not been obtained or (B) under any law applicable to the Company or any such Subsidiary (in the case of any foreign law, of which the Company has actual knowledge) or (ii) is not permitted by the operation of the terms of the organizational documents of such Subsidiary or any agreement or other instrument binding upon the Company or any Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions has been legally and effectively waived and (c) the income or loss of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Subsidiary.

“Consolidated Total Assets” means, as of the last day of any fiscal quarter of the Company, total assets as reflected on the consolidated balance sheet of the Company and the Subsidiaries, determined on a consolidated basis in accordance with GAAP.

“Consolidated Total Debt” means, as of any date, without duplication, (a) the aggregate principal amount of Indebtedness of the Company and the Subsidiaries (other than Indebtedness described in clause (f) of “Indebtedness”; provided that there shall be included in Consolidated Total Debt any Indebtedness in respect of drawings under letters of credit or letters of guaranty to the extent such drawings are not reimbursed within two Business Days after the date of any such drawing) outstanding as of such date, to the extent such Indebtedness would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP, plus (b) without duplication of amounts referred to in clause (a), the amount of Third Party Interests in respect of Permitted Receivables Facilities, in each case, without giving effect to any election to value any Indebtedness at “fair value”, as described in Section 1.04(a), or any other accounting principle that results in the amount of any such Indebtedness (other than zero coupon Indebtedness) to be below the stated principal amount of such Indebtedness, minus (c) the excess, if any, of the amount of Unrestricted Cash owned by the Company and its consolidated Subsidiaries as of such date over \$150,000,000; provided that, solely for the purposes of determining compliance by the Company with the Leverage Ratio set forth in Section 6.12 as of the last day of any Test Period, Consolidated Total Debt shall exclude any outstanding Notes issued in connection with a Permitted Material Acquisition if (i) such Permitted Material Acquisition has not been consummated on or before the last day of such Test Period and (ii) such Notes are secured on the last day of such Test Period by a Lien on the Permitted Escrow Funds with respect to such Notes (and any earnings thereon) having a value at least equal to the principal amount of such Notes, in accordance with the Permitted Escrow Transactions with respect to such Notes. Notwithstanding anything to the contrary herein, Consolidated Total Debt will exclude any Indebtedness (“Refinanced Debt”) outstanding on any determination date which is to be refinanced, repurchased or purchased, redeemed or otherwise repaid pursuant to a transaction not prohibited under this Agreement (and any amounts to be used to effect such refinancing, repurchase, purchase, redemption or repayment shall not be included as Unrestricted Cash for purposes of this Agreement); provided that a notice of redemption of, or an offer to purchase, such Refinanced Debt has been given or made (and, in the case of an offer to purchase, not withdrawn) on or prior to such date (any such Refinanced Debt, “Defeased Debt”).

“Consolidated Total Secured Debt” means, as of any date, the aggregate principal amount of Consolidated Total Debt of the Company and the Subsidiaries outstanding as of such date that is secured by Liens on any property or assets of the Company or the Subsidiaries (which shall be determined after giving effect to clause (c) of the definition of Consolidated Total Debt).

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

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

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

“Covered Party” has the meaning set forth in Section 9.23.

“Credit Party” means the Administrative Agent, each Issuing Bank and each Lender.

“CRR” means the Council Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 48/2012.

“Cumulative Leverage Ratio Increase Amount” means the sum of the Leverage Ratio Increase Amounts in respect of Pension Funding Indebtedness; provided that the Cumulative Leverage Ratio Increase Amount may not exceed 0.50; provided, further, that if any Indebtedness, including of term loans made under the Existing Credit Agreement (or any other prior credit agreement), is treated by the Company as Pension Funding Indebtedness when incurred, but the proceeds thereof are not applied as required by the definition of “Pension Funding Indebtedness” (including within the applicable time periods specified therein) to qualify as Pension Funding Indebtedness, on and as of the last day of the period during which such proceeds would have to be so applied, such Indebtedness will cease to be Pension Funding Indebtedness, any Leverage Ratio Increase Amounts previously attributable thereto will cease to apply, the Cumulative Leverage Ratio Increase Amount will be recalculated in accordance with the foregoing definition without regard to any such Leverage Ratio Increase Amounts and such recalculated Cumulative Leverage Ratio Increase Amount will apply from and after such day (subject to future adjustment based on subsequent issuances of Pension Funding Indebtedness).

**“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.**

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

“Defaulting Lender” means, subject to Section 2.19, any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, (i) to fund any portion of its Loans, (ii) to fund any portion of its participations in Letters of Credit or (iii) to pay to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically

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

“Defeased Debt” has the meaning given to such term in the definition of “Consolidated Total Debt”.

“Delayed Draw Funding Date” means the date on which the Delayed Draw Term Loans are funded pursuant to clause (b) of Section 2.01.

“Delayed Draw Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make a Delayed Draw Term Loan at any time on or after the Effective Date and on or prior to December 31, 2019, expressed as an amount representing the maximum principal amount of the Delayed Draw Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Delayed Draw Term Commitment is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have



assumed its Delayed Draw Term Commitment, as applicable. The aggregate amount of the Lenders' Delayed Draw Term Commitments as of the Effective Date is \$400,000,000.

“Delayed Draw Term Lender” means a Lender with a Delayed Draw Term Commitment or an outstanding Delayed Draw Term Loan.

“Delayed Draw Term Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Delivery Date” has the meaning set forth in Section 9.15.

“Designated Subsidiary” means each Material Subsidiary that is not an Excluded Subsidiary.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Company or a Subsidiary in connection with a disposition pursuant to Section 6.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Financial Officer of the Company, setting forth the basis of such valuation (the outstanding amount of which will be reduced by the fair market value of the portion of the non-cash consideration converted to cash or Permitted Investments within 180 days following the consummation of such disposition).

“Disclosed Matters” means the actions, suits, proceedings and the environmental, Intellectual Property and other matters disclosed in Schedule 3.06.

“Disposition” has the meaning set forth in Section 6.05.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Company or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date 180 days after the latest Maturity Date (determined as of the date of issuance thereof or, in the case of any such Equity Interests outstanding on the Effective Date, the Effective Date); provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an “asset sale” or a “change of control” (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable, the cancellation or expiration of all Letters of Credit and the termination or expiration of the Commitments, (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability and (iii) the Existing Preferred shall not constitute Disqualified Equity Interests.

“Dollar Equivalent” means, on any date, (a) with respect to any amount in Dollars, such amount, and (b) with respect to any amount in Euros or Sterling, the equivalent in Dollars of such amount, determined by the Administrative Agent using the Exchange Rate with respect to Euros or Sterling, as the case may be, in effect for such amount on such date. The Dollar Equivalent at any time of the amount of any Letter of Credit, LC Disbursement or Loan denominated in Euros or Sterling shall be the amount most recently determined as provided in Section 1.06.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Dutch Borrower” means any Borrower (i) that is organized or formed under the laws of the Netherlands or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the Netherlands.

“Dutch Non-Public Lender” means: (a) until the publication of an interpretation of “public” as referred to in the CRR by the competent authority/ies: an entity which (i) assumes existing rights and/or obligations vis-à-vis the Company, the value of which is at least EUR 100,000 (or its equivalent in another currency), (ii) provides repayable funds for an initial amount of at least EUR 100,000 (or its equivalent in another currency) or (iii) otherwise qualifies as not forming part of the public; and (b) as soon as the interpretation of the term “public” as referred to in the CRR has been published by the relevant authority/ies: an entity which is not considered to form part of the public on the basis of such interpretation.

“Early Opt-In Election” means:

(a) in the case of (x) Incremental Term A-2021 Loans or (y) Revolving Loans denominated in Dollars, the occurrence of:

(i) a notification by the Administrative Agent to (or the request by a Borrower, or the Borrower Agent on its behalf, to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding Dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(ii) the joint election by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, to trigger a fallback from LIBO Rate and the provision by the Administrative Agent of written notice of such election to the applicable Lenders; and

(b) in the case of Revolving Loans denominated in Euros or Sterling, the occurrence of:

(i) (A) a determination by the Administrative Agent or (B) a notification by the Lenders comprising the Majority in Interest of the Revolving Lenders to the Administrative Agent (with a copy to the Borrowers, or the Borrower Agent on their behalf) that such Lenders have determined that syndicated credit facilities denominated in the applicable currency being executed at such time, or that include language similar to that contained in Section 2.13(a) are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the Eurocurrency Rate, and

(ii) (A) the election by the Administrative Agent or (B) the election by the Lenders comprising the Majority in Interest of the Revolving Lenders to declare that an Early Opt-In Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrowers, or the Borrower Agent on their behalf, and the applicable Lenders or by the Lenders comprising the Majority in Interest of the Revolving Lenders of written notice of such election to the Administrative Agent.

“Economic IP Transfer” means a transfer of economic interests in Intellectual Property between or among the Company and any of its Subsidiaries that is not accompanied by a transfer of legal ownership of such Intellectual Property.

“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 clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any member state 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.~~

“EEA Resolution Authority” 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 clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02), which date is August 28, 2019.

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

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, (d) any bank and (e) any other financial institution or investment fund engaged as a primary activity in the ordinary course of its business in making or investing in commercial loans or debt securities, other than, in each case, a natural person, the Company, any Subsidiary or any other Affiliate of the Company.

“Engagement Letter” means the Engagement Letter dated July 30, 2019, among the Company, JPMorgan Chase Bank, N.A., BofA Securities, Inc. and Wells Fargo Securities, LLC.

“Environmental Laws” means all rules, regulations, codes, ordinances, judgments, orders, decrees and other laws, and all injunctions, notices or binding agreements, issued, promulgated or entered into by any Governmental Authority and relating in any way to the environment, to preservation or reclamation of natural resources, to the management, Release or threatened Release of any Hazardous Material or to related health or safety matters.

“Environmental Liability” means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties and indemnities), directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

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

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30day notice period is waived), (b) any failure by any Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, in each case whether or not waived, (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code), (e) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (f) the receipt by the Company or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Company or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, (h) the receipt by the Company or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Company or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA, or in endangered or critical status, within the meaning of Section 305 of ERISA and Section 432 of the Code, or (i) any Foreign Benefit Event.

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

“EURIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in Euros for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the EURIBO Rate shall be the Interpolated Screen Rate with respect to Euros as of the Specified Time on the Quotation Day; and provided, further, that if the EURIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Euro” or “€” means the single currency adopted by participating member states of the European Union in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Eurocurrency”, when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Adjusted Eurocurrency Rate.

**“Eurocurrency Rate” means (i) with respect to any Eurocurrency Borrowing denominated in Dollars or Sterling, the LIBO Rate or (ii) with respect to any Eurocurrency Borrowing denominated in Euros, the EURIBO Rate, as applicable.**

“Event of Default” has the meaning set forth in Article VII.

“Excess Cash Flow” means, for any fiscal year of the Company, the sum (without duplication) of:

(a) the consolidated net income (or loss) of the Company and its consolidated Subsidiaries for such fiscal year, adjusted to exclude (i) net income (or loss) of any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss is attributable to the non-controlling interest in such consolidated Subsidiary and (ii) any gains or losses attributable to Prepayment Events; plus

(b) depreciation, amortization and other non-cash charges or losses deducted in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash charge to the extent it represents an accrual or reserve for potential cash charges in any future period or amortization of prepaid cash charges that were paid in a prior period); plus

(c) the sum of (i) the amount, if any, by which Net Working Capital decreased during such fiscal year (except as a result of the reclassification of items from short-term to long-term or vice-versa), (ii) the net amount, if any, by which the consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries increased during such fiscal year and (iii) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year; minus

(d) the sum of (i) any non-cash gains included in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash charge that reduced consolidated net income of the Company and its consolidated Subsidiaries in any prior period if Excess Cash Flow was not increased by the amount of the corresponding non-cash charge in such prior period), (ii) the amount, if any, by which Net Working Capital increased during such fiscal year (except as a result of the reclassification of items from long-term to short-term or vice-versa), (iii) the net amount, if any, by which the

consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year and (iv) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries increased during such fiscal year; minus

(e) the sum (without duplication) of (i) Capital Expenditures made in cash for such fiscal year (except to the extent financed from Excluded Sources) and (ii) cash consideration paid during such fiscal year to make acquisitions or other long-term investments (other than cash equivalents) (except to the extent financed from Excluded Sources); minus

(f) the aggregate principal amount of Long-Term Indebtedness repaid or prepaid by the Company and its consolidated Subsidiaries during such fiscal year, excluding (i) Indebtedness in respect of Revolving Loans and Letters of Credit or other revolving credit facilities (unless there is a corresponding reduction in the commitments in respect of such other revolving credit facilities), (ii) Term Loans prepaid pursuant to Section 2.10(a), (c), (d) or (e) and (iii) repayments or prepayments of Long-Term Indebtedness financed from Excluded Sources; minus

(g) the aggregate amount of Restricted Payments made by the Company in cash during such fiscal year pursuant to Section 6.08(a) (other than clauses (i), (ii), (iii) and (ix) of Section 6.08(a)), except Restricted Payments financed from Excluded Sources; minus

(h) other cash payments in respect of long-term liabilities and long-term assets (in each case, other than in respect of Indebtedness) by the Company and its consolidated Subsidiaries during such period to the extent not deducted in determining consolidated net income (or loss) for such fiscal year.

“Exchange Act” means the United States Securities Exchange Act of 1934.

“Exchange Rate” means on any day, for purposes of determining the Dollar Equivalent of any other currency or the Alternative Currency Equivalent of Dollars, the rate of exchange for the purchase of Dollars with such currency or rate of exchange for the purchase of such other currency with Dollars, as applicable, last provided (either by publication or otherwise provided to the Administrative Agent) by the applicable Thomson Reuters Corp., Refinitiv, or any successor thereto (“Reuters”) source on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of Dollars with such currency or purchase of such currency with Dollars, as applicable, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in Dollars or

such other currency, as applicable, as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion).

“Excluded Assets” has the meaning set forth in the Collateral Agreement.

“Excluded Sources” means (a) proceeds of any incurrence or issuance of Long-Term Indebtedness or Capital Lease Obligations, (b) Net Proceeds of any sale, transfer, lease or other disposition of assets made in reliance on Section 6.05(k), (c) proceeds of any issuance or sale of Equity Interests in the Company or any capital contributions to the Company and (d) other proceeds not included in the consolidated net income of the Company and its consolidated Subsidiaries.

“Excluded Subsidiary” means (a) any Subsidiary that is not a wholly-owned subsidiary of the Company on the Effective Date or, if later, the date it first becomes a Subsidiary; provided that any such Subsidiary shall cease to be an Excluded Subsidiary at such time as it becomes a wholly owned Subsidiary of the Company and none of clauses (b) through (f) of this definition apply to it, (b) any Subsidiary that is a CFC (and accordingly, in no event shall a CFC be required to enter into any Security Document or pledge any assets hereunder), (c) any Subsidiary that is prohibited by applicable Requirements of Law from guaranteeing the Loan Document Obligations, (d) any Subsidiary (i) that is prohibited by any contractual obligation existing on the Effective Date or on the date such Subsidiary is acquired or otherwise becomes a Subsidiary (but not entered into in contemplation of the Transactions or such acquisition) from guaranteeing the Loan Document Obligations, (ii) that would require governmental (including regulatory) consent, approval, license or authorization to provide such Guarantee, unless such consent, approval, license or authorization has been received, or (iii) for which the provision of such Guarantee would result in a material adverse tax consequence to the Company and the Subsidiaries, taken as a whole (as reasonably determined in good faith by the Company), (e) any captive insurance subsidiary, not for profit subsidiary or special purpose entity, including any Receivables Subsidiary and (f) any other Subsidiary excused from becoming a Guarantor Loan Party pursuant to the last paragraph of the definition of the term “Collateral and Guarantee Requirement”.

“Excluded Taxes” means, with respect to any payment made by any Loan Party under this Agreement or any other Loan Document, any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient:

(a) Taxes imposed on or measured by net or gross income (however denominated), franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes;

(b) in the case of any Lender (other than an assignee pursuant to a request by the Company under Section 2.18(b)), any U.S. Federal, United Kingdom, Irish and Dutch withholding Taxes:



(i) resulting from any law in effect on the date such Lender becomes a party to this Agreement (or designates a new lending office), including circumstances where (x) any United Kingdom taxes are required to be deducted or withheld (a “UK Tax Deduction”) from a payment to (1) a UK Treaty Lender and the payment has not been specified in a direction given by the Commissioners of HMRC under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI1970/488); and (2) a Lender that is a UK Qualifying Lender solely by virtue of subparagraph (b) of the definition of UK Qualifying Lender and an officer of HMRC has given (and not revoked) a direction under section 931 of the UK Taxes Act and the payment could have been made without a UK Tax Deduction if such direction had not been made, or (y) any Irish taxes are required to be deducted or withheld from a payment to an Irish Treaty Lender and the payment has not been specified in an authorization given by the Revenue Commissioners of Ireland in effect on the Interest Payment Date, or

(ii) attributable to such Lender’s failure to comply with Section 2.16(f), (g)(i), (g)(ii), (g)(iii), (g)(vi), (h) and (i),

except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Company with respect to such withholding Taxes pursuant to Section 2.16(a), or except to the extent that any United Kingdom withholding Taxes are attributable to the failure of the relevant Loan Party to comply with its obligations in Section 2.16(g)(i), (g)(iii) and (g)(v);

(c) any U.S. federal withholding Taxes imposed under FATCA; and

(d) the bank levy as set out in the Finance Act 2011 of the United Kingdom and the bank levy as set out in the Bank Tax Act of the Netherlands.

“Existing 5.875% Notes” means the 5.875% senior unsecured notes due 2021 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

“Existing 6.375% Notes” means the 6.375% senior unsecured notes due 2023 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

“Existing Credit Agreement” means this Agreement as amended and in effect immediately prior to the Effective Date.

“Existing Letters of Credit” means the letters of credit previously issued pursuant to the Existing Credit Agreement that (a) are outstanding on the Effective Date and (b) are listed on Schedule 1.01A.

“Existing Preferred” means the Company’s Series A Convertible Preferred Stock, par value \$0.01, outstanding on the Effective Date.

“Existing Preferred Documentation” means the Articles Supplementary Classifying the Existing Preferred, the Investment Agreement dated as of November 11, 2015, by and between the Company and the Purchasers identified therein and each other agreement evidencing, governing the rights of the holders of or otherwise relating to the Existing Preferred.

“FAS 842” has the meaning set forth in Section 1.04(a).

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

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as ~~the NYFRB~~ shall be set forth on ~~its public website~~the NYFRB’s Website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Fee Letters” has the meaning set forth in the Engagement Letter.

“Financial Officer” means, with respect to any Person, the chief financial officer, principal accounting officer, treasurer, controller or other officer with equivalent responsibility of such Person.

**“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the LIBO Rate or the EURIBO Rate, as applicable.**

“Foreign Benefit Event” means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount of unfunded liabilities permitted under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law, or in excess of the amount that would be permitted absent a waiver from the relevant Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by the Company or any Subsidiary under applicable law on account of the complete or partial termination of such Foreign Pension Plan or the complete or partial withdrawal of any participating employer therein (excluding any liability (including contingent liabilities) that would as a matter of course be imposed under applicable law as the

result of any voluntary full or partial termination of any such Foreign Pension Plan as a result of a voluntary and legally permissible defeasance effected by the Company and/or its Subsidiaries of the related obligations and liabilities of the Company and its Subsidiaries under such Foreign Pension Plan) or (e) the occurrence of any transaction that is prohibited under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law and that could reasonably be expected to result in the incurrence of any liability by the Company or any Subsidiary, or the imposition on the Company or any Subsidiary of any fine, excise tax or penalty resulting from any noncompliance with the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law.

“Foreign Borrower” means each of (a) NCR Limited, a private limited company incorporated in England and Wales, (b) NCR Nederland B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) organized under the laws of the Netherlands, (c) NCR Global Solutions Limited, a limited liability company incorporated in Ireland and (d) each other Foreign Borrower that becomes a party hereto pursuant to Section 2.23(a), in each case, unless and until such Person ceases to be a Foreign Borrower hereunder.

“Foreign Borrower Exposure” means, at any time, the Dollar Equivalent of the outstanding principal amount of the Revolving Loans borrowed by the Foreign Borrowers.

“Foreign Borrower Joinder Agreement” means an agreement substantially in the form of Exhibit J-1, executed by the Company and the applicable Foreign Borrower.

“Foreign Borrower Obligations” has the meaning set forth in the Collateral Agreement.

“Foreign Borrower Termination” means an agreement substantially in the form of Exhibit J-2, executed by the Company.

“Foreign Lender” means any Lender that is not a U.S. Person.

“Foreign Pension Plan” means any benefit or welfare plan that under applicable law outside of the United States is funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

“Foreign Pledge Agreement” means a pledge or charge agreement granting a Lien on Equity Interests in a Foreign Subsidiary to secure the Obligations, governed by the law of the jurisdiction of organization of such Foreign Subsidiary and in form and substance reasonably satisfactory to the Administrative Agent.

“Foreign Source Prepayment” means, for any Foreign Subsidiary, any Net Proceeds arising from a Prepayment Event under paragraph (a) or (b) of the definition of Prepayment Event in respect of any asset of such Foreign Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America, applied in accordance with the consistency requirements thereof (subject to Section 1.04); provided, however, that if the Company hereafter changes its accounting standards in accordance with applicable laws and regulations, including those of the SEC, to adopt International Financial Reporting Standards, GAAP will mean such International Financial Reporting Standards after the effective date of such adoption (it being understood that any such adoption will be deemed to be a change in GAAP for all purposes hereof, including for purposes of Section 1.04).

“Governmental Approvals” means all authorizations, consents, approvals, permits, licenses and exemptions of, registrations and filings with, and reports to, Governmental Authorities.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national body exercising such powers or functions, such as the European Union or the European Central Bank).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee (including for purposes of determining the amount of any Investment associated with such Guarantee) shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which the guarantor may be liable pursuant to the terms of the instrument embodying such Guarantee, unless (in the case of a primary obligation that is not Indebtedness) such primary obligation and the maximum amount for which such guarantor may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guarantor’s maximum reasonably anticipated contingent liability in respect thereof as determined by the Company in good faith.

“Guarantor Loan Party” means the Company and each Subsidiary Loan Party.

“Hazardous Materials” means all explosive, radioactive, hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

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

“HMRC” means H.M. Revenue & Customs of the United Kingdom.

“HMRC DT Treaty Passport scheme” means the Board of HMRC Double Taxation Treaty Passport scheme.

“IBA” has the meaning set forth in Section 1.09.

“Impacted Interest Period” means at any time with respect to an Interest Period for a Borrowing denominated in a specified currency that the Screen Rate for such currency is not available at such time for such Interest Period.

“Incremental Commitment” means an Incremental Revolving Commitment or an Incremental Term Commitment.

“Incremental Facility” means an Incremental Revolving Facility or an Incremental Term Facility.

“Incremental Facility Agreement” means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Term Commitments of any Series or Incremental Revolving Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.20.

“Incremental Lender” means an Incremental Revolving Lender or an Incremental Term Lender.

“Incremental Revolving Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.20, to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure under such Incremental Facility Agreement.

“Incremental Revolving Facility” means an incremental portion of the Revolving Commitments established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Revolving Commitments.

“Incremental Revolving Lender” means a Lender with an Incremental Revolving Commitment.

“Incremental Term A Loans” means Incremental Term Loans that (a) are provided primarily by Regulated Banks, (b) amortize at a rate per annum of not less than 2.50% in each period of four consecutive fiscal quarters commencing on or after the funding of such Loans and ending on or prior to the applicable Maturity Date (subject to any customary grace period) and (c) have a weighted average life to maturity, when incurred, of five years or less.

**“Incremental Term A-2021 Lenders” has the meaning set forth in the Incremental Term Loan A Facility Agreement, dated as of February 16, 2021, among the Company, the other Loan Parties party thereto, the Tranche 1 Incremental Term A-2021 Lenders (as defined therein) party thereto, the Tranche 2 Incremental Term A-2021 Lenders (as defined therein) party thereto and the Administrative Agent, as such agreement is in effect on February 16, 2021.**

**“Incremental Term A-2021 Loans” has the meaning set forth in the Incremental Term Loan A Facility Agreement, dated as of February 16, 2021, among the Company, the other Loan Parties party thereto, the Tranche 1 Incremental Term A-2021 Lenders (as defined therein) party thereto, the Tranche 2 Incremental Term A-2021 Lenders (as defined therein) party thereto and the Administrative Agent, as such agreement is in effect on February 16, 2021.**

“Incremental Term Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant an Incremental Facility Agreement and Section 2.20, to make Incremental Term Loans of any Series hereunder, expressed as an amount representing the maximum principal amount of the Incremental Term Loans of such Series to be made by such Lender.

“Incremental Term Facility” means an incremental term loan facility established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Term Commitments.

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

“Incremental Term Loan” means a Loan made by an Incremental Term Lender to the Company pursuant to Section 2.20.

“Incremental Term Maturity Date” means, with respect to Incremental Term Loans of any Series, the scheduled date on which such Incremental Term Loans shall become due and payable in full hereunder, as specified in the applicable Incremental Facility Agreement.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (excluding trade accounts payable incurred in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services, excluding current accounts payable incurred in the ordinary course of business, (e) all Capital Lease Obligations and Synthetic Lease Obligations of such Person, (f) the maximum aggregate amount of all letters of credit and letters of guaranty in respect of which such Person is an account party (x) supporting Indebtedness or (y) obtained for any purpose not in the ordinary course of business, (g) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (h) all Disqualified Equity Interests in such Person, valued, as of the date of determination, at the greater of (i) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Equity Interests or Indebtedness into which such Disqualified Equity Interests are convertible or exchangeable) and (ii) the maximum liquidation preference of such Disqualified Equity Interests, (i) all Third Party Interests in respect of Permitted Receivables Facilities of such Person or its subsidiaries except to the extent that such Indebtedness would not appear as a liability upon a balance sheet (other than in the footnotes to financial statements) of such Person prepared in accordance with GAAP, (j) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person (if such Person has not assumed such Indebtedness of others, then the amount of Indebtedness of such Person shall be the lesser of (A) the amount of such Indebtedness of others and (B) the fair market value of such property, as reasonably determined by such Person) and (k) all Guarantees by such Person of Indebtedness of others. The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such other Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“Indemnified Institution” has the meaning set forth in Section 9.03(b).

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

“Indemnitee” has the meaning set forth in Section 9.03(b).

“Initial Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make an Initial Term Loan on the Effective Date, expressed as an amount representing the maximum principal amount of the Initial Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender

pursuant to Section 9.04. The initial amount of each Lender's Initial Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Initial Term Commitment, as applicable. The initial aggregate amount of the Lenders' Initial Term Commitments as of the Effective Date is \$350,000,000.

“Initial Term Lender” means a Lender with an Initial Term Commitment or an outstanding Initial Term Loan.

“Initial Term Loan” means a Loan made pursuant to clause (a) of Section 2.01.

“Intellectual Property” means all intellectual and similar property of every kind and nature now owned or hereafter acquired by the Company or any Subsidiary, including inventions, designs, patents, copyrights, trademarks, trade secrets, domain names, confidential or proprietary technical and business information, know-how, show-how or other similar data or information, software and databases and all embodiments or fixations thereof and related documentation, all additions, improvements and accessions to any of the foregoing and all registrations for any of the foregoing.

“Intercompany Permitted Receivables Facility Note” means any promissory note or debt obligations issued or incurred by a Receivables Subsidiary in consideration or partial consideration for the acquisition of Receivables from the Company or any Subsidiary in a Permitted Receivables Facility permitted hereunder.

“Interest Election Request” means a written request by the applicable Borrower, or the Borrower Agent on its behalf, to convert or continue a Revolving Borrowing or Term Borrowing in accordance with Section 2.06, which shall be substantially in the form of Exhibit F or any other form approved by the Administrative Agent.

“Interest Payment Date” means (a) with respect to any ABR Loan, the last day of each March, June, September and December, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months' duration, such day or days prior to the last day of such Interest Period as shall occur at intervals of three months' duration after the first day of such Interest Period.

“Interest Period” means, with respect to (x) any Eurocurrency Borrowing of Incremental Term A-2021 Loans or Revolving Loans, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter and (y) any other Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on (i) the seventh day thereafter or (ii) the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or, if agreed to by each Lender participating therein, twelve months thereafter), as the applicable Borrower, or the Borrower Agent on its behalf, may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of Interest Periods referred to in clause (x) or (y)(ii) above, such next succeeding Business Day would fall in the



next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period referred to in clause **(x) or (y)**(ii) that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“**Interests**” means, with respect to any Person, any Equity Interests, Indebtedness or any other debt or equity interests in such Person, including in the case of a Receivables Subsidiary, if applicable, any Intercompany Permitted Receivables Facility Notes or Third Party Interests.

“**Interpolated Screen Rate**” means, at any time, with respect to any currency, at any time for any Interest Period, or with respect to any determination of the Alternate Base Rate pursuant to clause (c) of the definition thereof, the rate per annum (rounded to the same number of decimal places as the Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Screen Rate for the longest period for which that Screen Rate is available for the applicable currency that is shorter than the Impacted Interest Period and (b) the applicable Screen Rate for the shortest period for which that Screen Rate is available for the applicable currency that exceeds the Impacted Interest Period, in each case, at such time; **provided that, solely in the case of Incremental Term A-2021 Loans and Revolving Loans, if any Interpolated Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.**

“**Investment**” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness or other obligations of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any date of determination, of (i) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing a payment or prepayment of in respect of principal of such Investment, but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (ii) any Investment in the form of a Guarantee shall be the amount determined in accordance with the definition of “Guarantee” herein, (iii) any Investment in the form of a transfer of Equity Interests or other non-cash property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair market value (as determined in good faith by a Financial Officer) of such Equity Interests or other property as of the time of the transfer, minus any payments actually received by such investor representing a

return of capital of (but not any dividends or other distributions in respect of return on the capital of) such Investment, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment and (iv) any Investment (other than any Investment referred to in clause (i), (ii) or (iii) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment (including any Indebtedness assumed in connection therewith), plus (A) the cost of all additions thereto and minus (B) the amount of any portion of such Investment that has been repaid to the investor in cash as a repayment of principal or a return of capital, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment.

“Investment Grade Date” means the first date on which the Company achieves an Investment Grade Rating.

“Investment Grade Rating” means either (i) a corporate credit rating from S&P of at least BBB- and a corporate family rating from Moody’s of at least Ba1, in each case with a stable or better outlook, or (ii) a corporate family rating from Moody’s of at least Baa3 and a corporate credit rating from S&P of at least BB+, in each case with a stable or better outlook.

“IP Security Agreements” has the meaning set forth in the Collateral Agreement.

“IP Subsidiary” means any Subsidiary that at any time owns any Intellectual Property or rights to Intellectual Property that are material to the business or operations of the Company and the Subsidiaries, taken as a whole.

“Irish Borrower” means any Borrower (i) that is incorporated under the laws of Ireland or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of Ireland.

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

- (a) a bank within the meaning of section 246(3)(a) of the TCA which is carrying on a bona fide banking business in Ireland for the purposes of section 246(3)(a) of the TCA and whose applicable lending office is located in Ireland;
- (b) [reserved]; or
- (c) a body corporate:

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

(ii) where the interest payable:

(A) (A) is exempted from the charge to income tax by arrangements that have the force of law under the procedures set out in section 826(1) of the TCA; or

(B) (B) would be exempted from the charge to income tax if arrangements made on or before the date of payment of the interest that do not have the force of law under procedures set out in section 826(1) of the TCA had the force of law when the interest was paid,

provided that interest payable to such company in respect of an advance under a Loan Document is not paid to that company in connection with a trade or business which is carried on in Ireland by that company through a branch or agency;

(d) a U.S. corporation that is incorporated in the U.S. and is subject to tax in the US on its worldwide income provided that interest payable to such U.S. corporation is not paid in connection with a trade or business which is carried on in Ireland by that U.S. corporation through a branch or agency;

(e) a U.S. limited liability company (“LLC”); provided that the ultimate recipients of the interest would be Irish Qualifying Lenders within paragraphs (c) or (d) of this definition and the business conducted through the LLC is so structured for market reasons and not for tax avoidance purposes and the ultimate recipients of the relevant interest do not provide their commitment in connection with a trade or business which is carried on in Ireland through a branch or agency;

(f) a body corporate:

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

(ii) in whose hands any interest payable in respect of monies so advanced is taken into account in computing the trading income of such company; and

(iii) which:

(A) has complied with the notification requirements under section 246(5)(a) of the TCA; and

(B) has provided the Borrowers with its tax reference number (within the meaning of section 885 of the TCA);

and whose applicable lending office is located in Ireland;

(g) a qualifying company (within the meaning of section 110 of the TCA) and whose applicable lending office is located in Ireland;

(h) an investment undertaking within the meaning of section 739B of the TCA and whose applicable lending office is located in Ireland;

(i) an exempt approved scheme within the meaning of section 774 of the TCA and whose applicable lending office is located in Ireland; or

(j) an Irish Treaty Lender.

“Irish Treaty Lender” means a Lender which is treated as a resident of an Irish Treaty State for the purposes of an Irish Treaty, does not carry on a business in Ireland through a branch or agency with which that Lender’s participation in the Loan Document is directly or indirectly connected and, subject to the completion of procedural formalities, meets all other conditions under the Irish Treaty for full exemption from tax imposed by Ireland on interest.

“Irish Treaty State” means a jurisdiction having a double taxation agreement with Ireland (an “Irish Treaty”) which makes provision for full exemption from tax imposed by Ireland on interest and has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“IRS” means the United States Internal Revenue Service.

“ISDA CDS Definitions” has the meaning set forth in Section 9.02(e).

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

“Issuing Bank” means (a) JPMorgan Chase Bank, N.A., (b) Bank of America, N.A., (c) Wells Fargo Bank, National Association, (d) MUFG Bank, Ltd., (e) PNC Bank, National Association, (f) Royal Bank of Canada, (g) Suntrust Bank, (h) Capital One, National Association and (i) each Revolving Lender that shall have become an Issuing Bank hereunder as provided in Section 2.04(j) (other than any Person that shall have ceased to be an Issuing Bank as provided in Section 2.04(k)), each in its capacity as an issuer of Letters of Credit hereunder. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such

Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.04 with respect to such Letters of Credit).

“Judgment Currency” has the meaning set forth in Section 9.21(b).

“Junior Indebtedness” means any Indebtedness that is subordinated in right of payment to the Loan Document Obligations.

“LC Commitment” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank’s LC Commitment is set forth on Schedule 2.01, or if an Issuing Bank has entered into an Assignment and Assumption or became an Issuing Bank pursuant to an agreement designating it as contemplated by Section 2.04(j), the amount set forth for such Issuing Bank as its LC Commitment in the Register maintained by the Administrative Agent or in such agreement.

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

“LC Exposure” means, at any time, the sum of (a) the aggregate of the Dollar Equivalents of all Letters of Credit that remain available for drawing at such time and (b) the aggregate of the Dollar Equivalents of the amounts of all LC Disbursements that have not yet been reimbursed by or on behalf of the applicable Borrowers at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“LC Fee” has the meaning set forth in Section 2.11(b).

**“Lender-Related Person” means the Administrative Agent, any Arranger, any Co-Syndication Agent, any Co-Documentation Agent, any Issuing Bank and any Lender, and any Related Party of any of the foregoing Persons.**

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or an Incremental Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption.

“Letter of Credit” means any standby letter of credit issued pursuant to this Agreement, other than any such letter of credit that shall have ceased to be a “Letter of Credit” outstanding hereunder pursuant to Section 9.05.

“Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Leverage Ratio Increase Amount” means, with respect to any new incurrence of Pension Funding Indebtedness on any date, the ratio (rounded upwards, if necessary, to the next

1/10), expressed as a decimal, of (a) the aggregate principal amount of such Pension Funding Indebtedness incurred on such date to (b) the greater of (i) Consolidated EBITDA for the most recently ended period of four consecutive fiscal quarters of the Company and (ii) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company ended on March 31, 2013.

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

**“LIBO Rate”** means, with respect to any Eurocurrency Borrowing denominated in Dollars or in Sterling for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the LIBO Rate shall be the Interpolated Screen Rate with respect to such currency as of the Specified Time on the Quotation Day; and provided, further, that if the LIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

**“Lien”** means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, charge, assignment by way of security, security interest or other encumbrance on, in or of such asset, including any arrangement entered into for the purpose of making particular assets available to satisfy any Indebtedness or other obligation, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or Synthetic Lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

**“Limited Condition Acquisition”** means any Permitted Acquisition or other Investment permitted by this Agreement with respect to which the consummation of such Permitted Acquisition or other Investment by the Company or any Subsidiary is not conditioned on the availability of, or on obtaining, third party financing.

**“Loan Document Obligations”** has the meaning set forth in the Collateral Agreement.

**“Loan Documents”** means this Agreement, the Incremental Facility Agreements, the Loan Modification Agreements, the Collateral Agreement, the other Security Documents, any letter of credit applications, any agreements between any Borrower and any Issuing Bank regarding such Issuing Bank’s LC Commitment or the respective rights and obligations between each applicable Borrower and such Issuing Bank in connection with the issuance of Letters of Credit, any agreement designating an additional Issuing Bank as contemplated by Section 2.04(j) and, except for purposes of Section 9.02, any promissory notes delivered pursuant to Section 2.08(c).

**“Loan Modification Agreement”** means a Loan Modification Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Accepting Lenders,

effecting one or more Permitted Amendments and such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.21.

“Loan Modification Offer” has the meaning set forth in Section 2.21(a).

“Loan Parties” means each Borrower and each Subsidiary Loan Party.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“Local Time” means (a) with respect to a Dollar-denominated Borrowing or Letter of Credit, New York City time, and (b) with respect to a Euro-denominated or Sterling denominated Borrowing or Letter of Credit, London time.

“Long-Term Indebtedness” means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

“Majority in Interest”, when used in reference to Lenders of any Class, means, at any time, (a) in the case of the Revolving Lenders, Lenders having Revolving Exposures and unused Revolving Commitments representing more than 50% of the sum of the Aggregate Revolving Exposures and the unused Aggregate Revolving Commitment at such time and (b) in the case of the Term Lenders of any Class, Lenders holding outstanding Term Loans or Term Commitments of such Class representing more than 50% of all Term Loans and Term Commitments of such Class outstanding at such time.

“Managing Arranger” means (a) with respect to the revolving credit facility provided for herein, J.P. Morgan Chase Bank, N.A., in its capacity as the “left placement” lead arranger and bookrunner and (b) with respect to the term loan credit facilities provided for herein, BofA Securities, Inc., in its capacity as the “left placement” lead arranger and bookrunner.

“Mark-to-Market Pension Accounting” means an accounting methodology, as set forth in Annex A, that records actuarial gains and losses on Plans and Foreign Pension Plans in the year incurred rather than amortizing such gains and losses over time.

“Material Acquisition” means any acquisition, or a series of related acquisitions, of (a) Equity Interests in any Person (other than an existing Subsidiary of the Company) if, after giving effect thereto, such Person will become a Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person (other than an existing Subsidiary of the Company); provided that the aggregate consideration therefor (including Indebtedness assumed in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or financial condition of the Company and the Subsidiaries, taken as a whole, (b) the ability of the Company and the other Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents.

“Material Disposition” means any Disposition, or a series of related Dispositions, of (a) all or substantially all the issued and outstanding Equity Interests in any Person that are owned by the Company or any Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed by the transferee in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Indebtedness” means Indebtedness (other than the Loans, Letters of Credit and Guarantees under the Loan Documents), or obligations in respect of one or more Hedging Agreements, of any one or more of the Company and the Subsidiaries in an aggregate principal amount of \$150,000,000 or more. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Material Subsidiary” means (i) each IP Subsidiary, (ii) each Domestic Subsidiary that has become a Designated Subsidiary pursuant to a designation by the Company under Section 5.03(b), (iii) any Domestic Subsidiary that directly owns or holds Equity Interests of any Foreign Subsidiary or CFC Holdco that is a Material Subsidiary, (iv) each Domestic Subsidiary (a) the consolidated total assets of which (excluding assets of, and investments in, Foreign Subsidiaries) equal 5% or more of the consolidated total assets of the Company (excluding assets of, and investments in, Foreign Subsidiaries) or (b) the consolidated revenues of which (excluding consolidated revenues attributable to Foreign Subsidiaries) account for 5% or more of the consolidated revenues of the Company (excluding consolidated revenues attributable to Foreign Subsidiaries), and (v) any Foreign Subsidiary or CFC Holdco (a) the consolidated total assets of which equal 5% or more of the consolidated total assets of the Company or (b) the consolidated revenues of which accounts for 5% or more of the consolidated revenues of the Company, in each case as of the end of or for the most recent period of four consecutive fiscal quarters of the Company for which financial statements have been delivered pursuant to Sections 5.01(a) or 5.01(b); provided that if at the end of or for any such most recent period of four consecutive fiscal quarters the combined consolidated total assets or combined consolidated revenues of all Subsidiaries that would not constitute Material Subsidiaries shall exceed 15% of the consolidated total assets of the Company or 15% of the consolidated revenues of the Company, then one or more of such Subsidiaries shall for all purposes of this Agreement be



deemed to be Material Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated revenues, as the case may be, until such excess shall have been eliminated.

“Maturity Date” means the Term Maturity Date, the Incremental Term Maturity Date with respect to Incremental Term Loans of any Series or the Revolving Maturity Date, as the context requires.

“Maximum Rate” has the meaning set forth in Section 9.13.

“MNPI” means material information concerning the Company and the Subsidiaries and their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act.

“Moody’s” means Moody’s Investors Service, Inc., and any successor to its rating agency business.

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

“NCR Manaus” means NCR BRASIL – INDÚSTRIA DE EQUIPAMENTOS PARA AUTOMAÇÃO S.A., a Brazilian corporation.

“NCR Manaus Holdco” means any Subsidiary that directly owns or holds any Equity Interest in NCR Manaus.

“Net Proceeds” means, with respect to any event, (a) the cash (which term, for purposes of this definition, shall include Permitted Investments) proceeds (including, in the case of any casualty, condemnation or similar proceeding, insurance, condemnation or similar proceeds) received in respect of such event, including any cash received in respect of any noncash proceeds, but only as and when received, net of (b) the sum, without duplication, of (i) all fees and out-of-pocket expenses paid in connection with such event by the Company and the Subsidiaries, (ii) in the case of a Disposition (including pursuant to a Sale/Leaseback Transaction or a casualty or a condemnation or similar proceeding) of an asset, (A) the amount of all payments required to be made by the Company and the Subsidiaries as a result of such event to repay Indebtedness (other than Loans) secured by such asset and (B) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (B)) attributable to minority interests and not available for distribution to or for the account of the Company and the Subsidiaries as a result thereof and (iii) the amount of all taxes paid (or reasonably estimated to be payable) by the Company and the Subsidiaries and the amount of any reserves established by the Company and the Subsidiaries in accordance with GAAP to fund purchase price adjustment, indemnification and similar contingent liabilities (other than any earnout obligations) reasonably estimated to be payable and that are directly attributable to the occurrence of such event (as determined reasonably and in good faith by the chief financial officer of the Company). For purposes of this definition, in the event any contingent liability reserve established with respect

to any event as described in clause (b)(iii) above shall be reduced, the amount of such reduction shall, except to the extent such reduction is made as a result of a payment having been made in respect of the contingent liabilities with respect to which such reserve has been established, be deemed to be receipt, on the date of such reduction, of cash proceeds in respect of such event.

“Net Short Lender” has the meaning set forth in Section 9.02(e).

“Net Working Capital” means, at any date, (a) the consolidated current assets of Company and its consolidated Subsidiaries as of such date (excluding cash and Permitted Investments) minus (b) the consolidated current liabilities of Company and its consolidated Subsidiaries as of such date (excluding current liabilities in respect of Indebtedness). Net Working Capital at any date may be a positive or negative number. Net Working Capital increases when it becomes more positive or less negative and decreases when it becomes less positive or more negative.

“Non-Cash Charges” means any noncash charges, including (a) any write-off for impairment of long lived assets including goodwill, intangible assets and fixed assets such as property, plant and equipment, and investments in debt and equity securities pursuant to GAAP, (b) non-cash expenses resulting from the grant of stock options, restricted stock awards or other equity-based incentives to any director, officer or employee of the Company or any Subsidiary (excluding any cash payments of income taxes made for the benefit of any such Person in consideration of the surrender of any portion of such options, stock or other incentives upon the exercise or vesting thereof) and (c) any non-cash charges resulting from the application of purchase accounting; provided that Non-Cash Charges shall not include additions in the ordinary course of business to bad debt reserves or bad debt expense, any non-cash charge in the ordinary course of business that results from the write-down or write-off of inventory and any noncash charge that results from the write-down or write-off in the ordinary course of business of accounts receivable or that is taken in the ordinary course of business in respect of any other item that was included in Consolidated Net Income in a prior period.

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

“Non-Investment Grade Date” means the first date, following an Investment Grade Date, on which the Company does not have an Investment Grade Rating.

“Non-Investment Grade Period” means (a) the period commencing on and including the Effective Date to but excluding the first Investment Grade Date, and (b) each period commencing on and including each subsequent Non-Investment Grade Date to but excluding the next succeeding Investment Grade Date.

“Non-Significant Subsidiary” means any Subsidiary that is not a Foreign Borrower, a Subsidiary Loan Party or a Material Subsidiary.

“Notes” means senior unsecured (except as contemplated by the definition of “Permitted Escrow Transactions”) notes of the Company or a Permitted Escrow Subsidiary

issued and sold to provide a portion of the cash consideration payable for any other Permitted Material Acquisition.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“NYFRB’s Website” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“Obligations” has the meaning set forth in the Collateral Agreement.

“Original Effective Date” means July 25, 2013.

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

“Other Taxes” means any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment under Section 2.18(b)).

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on ~~its public website~~ the NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Overnight Eurocurrency Rate” means, for any day, (a) in respect of any Sterling-denominated amount, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for

Sterling for an overnight borrowing as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, on such day and (b) in respect of any Euro-denominated amount, the Euro interbank offered rate administered by the European Money Markets Institute (or any other Person that takes over the administration of that rate) for an overnight borrowing as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion); and provided further that if the Overnight Eurocurrency Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Participant Register” has the meaning set forth in Section 9.04(c)(i).

“Participants” has the meaning set forth in Section 9.04(c)(i).

“Party” has the meaning set forth in Section 2.16(k)(i).

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

“Pension Funding Indebtedness” means any Long-Term Indebtedness (other than Indebtedness utilizing the Revolving Commitments or any other revolving or temporary debt facility) permitted under Section 6.01 incurred on or after the Original Effective Date by the Company, any Guarantor or any Subsidiary located in Japan, Germany, the United Kingdom or Switzerland to the extent the proceeds of such Indebtedness are used (i) not later than the 60th day (in respect of contributions to Plans) and not later than the 120th day (in respect of contributions to Foreign Pension Plans) after the receipt of such proceeds (as such time periods may be extended by the Administrative Agent in its sole discretion to accommodate regulatory requirements, obtaining governmental consents or approvals, or obtaining consents or approvals of trustees or plan administrators), to make contributions to one or more Plans and/or Foreign Pension Plans existing on the Original Effective Date that reduce the amount of then-existing unfunded liabilities of such Plan, Foreign Pension Plan, Plans or Foreign Pension Plans, or (ii) to refinance Revolving Loans or other temporary Indebtedness (which will not constitute Pension Funding Indebtedness) the proceeds of which were previously used for the purposes set forth in clause (i); provided that the issuance of such Pension Funding Indebtedness and the use of proceeds thereof to refinance such Revolving Loans or other temporary Indebtedness occurs within one-year after the date of incurrence of such Revolving Loans or other temporary Indebtedness; provided, however, that Pension Funding Indebtedness will not in any event include any such Indebtedness the proceeds of which are used to fund (or to refinance Revolving Loans or other temporary Indebtedness the proceeds of which were used to fund) ongoing annual expenses of any such Plan or Foreign Pension Plan (other than ongoing annual expenses paid out of the assets of any such Plan or Foreign Pension Plan). It is understood and agreed that the Term

Loans hereunder, including those made on the Effective Date, will constitute Pension Funding Indebtedness to the extent the proceeds thereof have been used in accordance with the foregoing definition (provided that, notwithstanding the foregoing definition, \$80,000,000 of the Term Loans borrowed hereunder, the proceeds of which Term Loans were used to refinance term loans borrowed under the Existing Credit Agreement, shall be deemed Pension Funding Indebtedness).

“Perfection Certificate” means a certificate substantially in the form of Exhibit G or any other form approved by the Administrative Agent.

“Performance Support Instrument” means (a) a performance bond or performance guarantee or a letter of credit (other than a Letter of Credit) issued in lieu of a performance bond or performance guarantee, in each case for the account of and to support the performance obligations of a Foreign Subsidiary, or (b) a letter of credit (other than a Letter of Credit) issued to support obligations of the Company or any Subsidiary permitted pursuant to Section 6.01(ix)(x).

“Permitted Acquisition” means the purchase or other acquisition (including pursuant to two-step transaction such as a tender offer followed by a merger) by the Company or any Subsidiary of substantially all the Equity Interests in, or all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of), any Person; provided that (i) such purchase or acquisition was not preceded by, or consummated pursuant to, an unsolicited tender offer or proxy contest initiated by or on behalf of the Company or any Subsidiary, (ii) all transactions related thereto are consummated in accordance with applicable law, (iii) the business of such Person, or such assets, as the case may be, constitute a business permitted under Section 6.03(b), (iv) with respect to each such purchase or other acquisition, all actions required to be taken with respect to each newly created or acquired Subsidiary or assets in order to satisfy the requirements set forth in the definition of the term “Collateral and Guarantee Requirement” shall have been taken (or arrangements for the taking of such actions satisfactory to the Administrative Agent shall have been made) and (v) at the time of and immediately after giving effect to any such purchase or other acquisition, (A) no Default shall have occurred and be continuing or would result therefrom (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (A) shall be limited to that there not have occurred and be continuing any Event of Default under clause (a) or (b) of Article VII or any Event of Default with respect to any Borrower under clause (i) or (j) of Article VII, in each case, at the signing of the definitive agreement to consummate such Limited Condition Acquisition and at the closing thereof), (B) the Leverage Ratio calculated on a Pro Forma Basis giving effect to such purchase or acquisition shall be not more than the then applicable ratio under Section 6.12 for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b) (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (B) may, at the Company’s option, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof) and (C) in the case of such a purchase or other acquisition for consideration in excess of \$75,000,000, the Company shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Company, in form and substance reasonably satisfactory to the Administrative Agent,

certifying that all the requirements set forth in this definition have been satisfied with respect to such purchase or other acquisition, together with reasonably detailed calculations demonstrating satisfaction of the requirement set forth in clause (v)(B) above.

“Permitted Additional Indebtedness” means Indebtedness of the Company or any Subsidiary Loan Party that (i) except as otherwise permitted under Section 6.02(a)(xvii), is not secured by any collateral (including the Collateral), (ii) except with respect to up to \$750,000,000 in the aggregate of Permitted Additional Indebtedness, does not mature earlier than, and has a weighted average life to maturity (determined without giving effect to any prepayments that reduce amortization) no earlier than, 91 days after the Term Maturity Date,, (iii) does not provide for any amortization, mandatory prepayment, mandatory redemption or mandatory repurchase (other than upon (x) an asset sale, so long as such requirements permit the prior prepayment of the Term Borrowings with the Net Proceeds of such asset sale, or (y) a change of control) prior to the date that is 91 days after the Term Maturity Date and (iv) is not guaranteed by any Subsidiary that is not a Subsidiary Loan Party (unless it becomes a Subsidiary Loan Party in connection with such transaction); provided that, (a) notwithstanding any failure of any Senior Bridge Loans (or any extended term loans or exchange notes into or for which such Senior Bridge Loans may be converted or exchanged in accordance with the terms thereof) to comply with the requirements set forth in clauses (ii) and (iii) of this definition, such Senior Bridge Loans (and such extended term loans and exchange notes) shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as (x) such Senior Bridge Loans do not mature prior to the first anniversary of the closing date of the applicable Permitted Material Acquisition and the definitive documentation governing the Senior Bridge Facility contains provisions requiring, on or prior to such maturity date, automatic conversion of the Senior Bridge Loans into extended term loans (and permitting exchange of the Senior Bridge Loans for exchange notes), in each case having a maturity and weighted average life to maturity that comply with the requirements of clause (ii) of this definition, (y) the definitive documentation governing the Senior Bridge Facility (or such extended term loans or exchange notes, as applicable) does not require mandatory prepayment of or any mandatory offer to prepay or repurchase the Senior Bridge Loans (or such extended term loans or exchange notes, as applicable) other than from (I) the Net Proceeds of sales of Equity Interests of the Company and (II) to the extent not required to be applied to the prepayment of Term Borrowings, reinvested or utilized to effect Permitted Acquisitions pursuant to Section 2.10(c), from asset sales or incurrences of Indebtedness by the Company and its Subsidiaries, and (z) the terms of the Senior Bridge Loans (and such extended term loans and exchange notes) otherwise comply with the requirements of clauses (i) and (iv) of this definition and (b) in the event that any Notes are issued in connection with a Permitted Material Acquisition prior to the date of consummation of such Permitted Material Acquisition, notwithstanding any failure of such Notes to comply with the requirements set forth in clauses (i) and (iii) of this definition solely as a result of the Permitted Escrow Transactions with respect to such Notes and the requirement to prepay or repurchase such Notes with the applicable Permitted Escrow Funds in accordance with the requirements of the proviso in Section 6.02(a)(xxi) hereof, such Notes shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as the terms of such Notes otherwise comply with the requirements of this definition. The term “Permitted

Additional Indebtedness” shall include the guarantees of Permitted Additional Indebtedness by Subsidiaries that are Subsidiary Loan Parties.

“Permitted Amendment” means an amendment to this Agreement and the other Loan Documents, effected in connection with a Loan Modification Offer pursuant to Section 2.21, providing for an extension of the Maturity Date applicable to the Loans and/or Commitments of the Accepting Lenders and, in connection therewith, (a) a change in the Applicable Rate with respect to the Loans and/or Commitments of the Accepting Lenders and/or (b) a change in the fees payable to, or the inclusion of new fees to be payable to, the Accepting Lenders.

“Permitted Cash Pooling Arrangement” means a cash management and deposit pooling agreement with a banking entity relating solely to deposit accounts of Foreign Subsidiaries and providing for temporary overdrafts to finance working capital needs of Foreign Subsidiaries, the pooling of funds of Foreign Subsidiaries deposited in linked deposit accounts to repay such overdrafts and the grant of Liens and setoff rights with respect to such deposited funds and linked deposit accounts to secure the repayment of such overdrafts and the payment of related interest and fees to such banking entity; provided that the obligations under any Permitted Cash Pooling Arrangements are not secured by Liens (including set off rights) on or with respect to any assets of the Company or any Loan Party.

“Permitted Encumbrances” means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.06;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code), arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.06;

(c) pledges and deposits made or Liens imposed (i) in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations or other public statutory obligations and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(d) assignments by way of security, pledges and deposits made or Liens imposed (i) to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(e) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Company or any Subsidiary;

(f) banker's liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions; provided that such deposit accounts or funds are not established or deposited for the purpose of providing collateral for any Indebtedness and are not subject to restrictions on access by the Company or any Subsidiary in excess of those required by applicable banking regulations;

(g) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases entered into by the Company and the Subsidiaries in the ordinary course of business;

(h) Liens securing or otherwise arising from judgments not constituting an Event of Default under clause (l) of Article VII;

(i) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the property subject to any lease, license or sublicense or concession agreement permitted by this Agreement; and

(j) Liens created pursuant to the general conditions of a bank operating in the Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*);

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness other than Liens referred to in clauses (c) and (d) above securing obligations under letters of credit or bank guarantees.

"Permitted Escrow Funds" means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, the sum of (a) the aggregate cash proceeds received by the Company or a Permitted Escrow Subsidiary from the issuance and sale of such Notes, plus (b) cash in an amount equal to interest accruing on such Notes for the escrow period provided in the escrow agreement applicable to such Notes.

"Permitted Escrow Subsidiary." means a wholly-owned limited purpose Subsidiary of the Company formed solely for the purposes of, and that solely engages in, the issuance of Notes and the Permitted Escrow Transactions with respect to such Notes in connection with a Permitted Material Acquisition; provided that such Permitted Escrow Subsidiary (a) has no assets or liabilities other than (i) cash and Permitted Investments constituting Permitted Escrow Funds with respect to the applicable Notes and (ii) obligations



under the applicable Notes or otherwise arising out of the Permitted Escrow Transactions with respect to such Notes and (b) is merged into or consolidated with the Company (with the Company as the surviving Person) substantially contemporaneously with the consummation of such Permitted Material Acquisition, with the Company assuming such Permitted Escrow Subsidiary's obligations under the applicable Notes upon consummation of such merger or consolidation.

“Permitted Escrow Transactions” means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, (a) the establishment by the Company or a Permitted Escrow Subsidiary of a segregated escrow account under the sole control of the trustee for such Notes or other escrow agent reasonably acceptable to the Administrative Agent, in each case pursuant to an escrow agreement reasonably acceptable to the Administrative Agent, which shall provide for the termination of such escrow and the discharge and release of the related Liens permitted by clause (c) below upon the earliest to occur of the events specified in the proviso in Section 6.02(a)(xxi) hereof, (b) the depositing of the Permitted Escrow Funds with respect to such Notes into such escrow account substantially contemporaneously with the issuance of such Notes and (c) the granting by the Company or a Permitted Escrow Subsidiary of a Lien on such escrow account and the Permitted Escrow Funds deposited therein (and any earnings thereon) in favor of the trustee for such Notes, for the ratable benefit of the holders of such Notes.

“Permitted Investments” means Investments in cash equivalents, short-term debt obligations, bank deposits, and other debt and equity securities and obligations that, in each case, constitute “Eligible Securities” under, and otherwise comply with the requirements of, the Company's current policy on cash and investments set forth on Schedule 1.01B hereto.

“Permitted IP Transfer” means (i) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of Radiant Systems, Inc. and its Subsidiaries or any other Person acquired by the Company after the Original Effective Date, in each case to NCR (Bermuda) Holdings LTD, or another Foreign Subsidiary complying with the requirements of clause (x) below and for consideration that may include promissory notes payable over a period not in excess of 10 years and (ii) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of the Company or any Domestic Subsidiary to a Foreign Subsidiary; provided that, in the case of sales under this clause (ii), (a) any such sale is made for cash consideration paid by the acquiring Foreign Subsidiary to the Company or such Domestic Subsidiary, as the case may be, at the time of transfer in an amount not less than the fair market value of the Intellectual Property transferred; provided that up to \$35,000,000 of such consideration in the aggregate for all Permitted IP Transfers under this clause (ii) may consist of promissory notes that are required to be paid in full not later than the Term Maturity Date and up to \$10,000,000 of such consideration may consist of the issuance of Equity Interests of Foreign Subsidiaries and (b) the aggregate, cumulative fair market value of all such transferred Intellectual Property shall not exceed the greater of (1) \$100,000,000 and (2)

1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and provided, further, that in the case of all sales under clause (i) and (ii) of this definition, (x) the acquiring Foreign Subsidiary shall be (A) a Subsidiary of up to, but not including 66 $\frac{2}{3}$ % (and in any event at least 65%) of the outstanding voting Equity Interests, and all other Equity Interests, of which shall have been pledged pursuant to the Collateral Agreement or, where the Administrative Agent shall have so reasonably requested in accordance with the Collateral and Guarantee Requirement, a Foreign Pledge Agreement or (B) a direct or indirect wholly owned subsidiary of one or more Foreign Subsidiaries of the type described in the preceding clause (A) or Subsidiary Loan Parties, (y) no Liens (other than Permitted Encumbrances and Liens in favor of the Administrative Agent, for the benefit of the Secured Parties) shall exist on any such transferred Intellectual Property at the time of its transfer and (z) any license (including any license providing for a declining royalty) of such Intellectual Property or of rights to use such Intellectual Property entered into with or Guaranteed by the Company or any Subsidiary shall be on arms-length terms no less favorable to the Company or such Subsidiary than could be obtained in a transaction with an unaffiliated third party, as determined in good faith by the Company.

“Permitted Leverage Ratio” means

(a) prior to the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to March 31, 2021, (A) the sum of 4.50 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, (ii) in the case of any fiscal quarter ending after March 31, 2021, and on or prior to March 31, 2023, (A) the sum of 4.25 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, and (iii) in the case of any fiscal quarter ending after March 31, 2023, (A) the sum of 4.00 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00; provided that, following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters; provided, further, that, notwithstanding the foregoing, prior to the date of the consummation of the Specified Acquisition, the maximum Permitted Leverage Ratio, inclusive of all increases as a result of the Cumulative Leverage Ratio Increase Amount or any adjustment in connection with a Material Acquisition, shall at no time exceed 4.75 to 1.00; and

(b) from and after the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to December 31, 2021, 5.50 to 1.00, (ii) in the case of any fiscal quarter ending on or prior to September 30, 2022, 5.25 to 1.00, and (iii) in the case of any fiscal quarter ending on or after December 31, 2022, 4.75 to 1.00; provided that, solely in the case of this clause (iii), following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so

elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 to 5.00 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters.

“Permitted Material Acquisition” means a Permitted Acquisition that is a Material Acquisition.

“Permitted Receivables Facility” means one or more facilities or individual transactions consisting of transfers on one or more occasions by the Company or any of its Subsidiaries (including through a Receivables Subsidiary) to any third-party buyer, purchaser or lender of interests in Receivables (including collections thereof and any related assets), so long as the sum of the aggregate outstanding principal amount of Third Party Interests incurred pursuant to such facilities or transactions and the principal amount of Receivables transferred and outstanding to any third-party buyer or purchaser does not exceed the greater of (x) \$500,000,000 and (y) 37.5% of the book value of the Company’s and its consolidated Subsidiaries’ Receivables as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof at any one time; provided, that (a) no portion of the Indebtedness or any other obligation (contingent or otherwise) under such Permitted Receivables Facility shall be guaranteed by the Company or any of its Subsidiaries except as permitted by the following clause (b), (b) there shall be no recourse or obligation to the Company or any of its Subsidiaries whatsoever other than (x) recourse solely attributable to any applicable Standard Receivables Undertakings and (y) recourse solely against the Company’s or such Subsidiaries’ retained interest in the Receivables Subsidiary which finances the acquisition of the relevant Receivables or residual values related thereto and (c) neither the Company nor any of its Subsidiaries shall have provided, either directly or indirectly, any credit support of any kind in connection with such Permitted Receivables Facility other than as set forth in clause (b) of this definition.

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

“Plan” means any “employee pension benefit plan”, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA and in respect of which the Borrower or any of its ERISA Affiliates is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” has the meaning set forth in Section 9.01(d).

“Pledge Agreement” has the meaning set forth in the Collateral Agreement.

“Pledge Effectiveness Period” means (i) the period commencing on the Effective Date (as defined in the Existing Credit Agreement) and ending on the first Investment Grade

Date thereafter on which no Term Loans are outstanding and (ii) each subsequent period commencing on a Non-Investment Grade Date and ending on the next following Investment Grade Date.

“Post-Acquisition Period” means, with respect to any Material Acquisition or any Material Disposition, the period beginning on the date such transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such transaction is consummated.

“Prepayment Event” means:

(a) any Disposition (including pursuant to a Sale/Leaseback Transaction or by way of merger or consolidation) of any asset of the Company or any Subsidiary, including any sale or issuance to a Person other than the Company or any Subsidiary of Equity Interests in any Subsidiary, other than (i) Dispositions described in clauses (a) through (h) of Section 6.05, (ii) the Scheduled Dispositions and (iii) other Dispositions resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company;

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any asset of the Company or any Subsidiary other than any resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company; or

(c) the incurrence by the Company or any Subsidiary of any Indebtedness, other than any Indebtedness permitted to be incurred by Section 6.01.

“Prime Rate” means the rate of interest last quoted by *The Wall Street Journal* as the “Prime Rate” in the United States or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board 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 Federal Reserve Board (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.

“Private Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that are not Public Side Lender Representatives.

“Pro Forma Adjustment” means, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, the pro forma increase or decrease in Consolidated EBITDA (including the portion thereof attributable to any assets (including Equity Interests) sold or acquired) projected by the Company in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable

and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of the assets acquired with the operations of the Company and the Subsidiaries or the applicable Disposition; provided that, so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated EBITDA, that such cost savings will be realizable during the entirety, or such additional costs, as applicable, will be incurred during the entirety of such Test Period; provided, further, that any such pro forma increase or decrease to Consolidated EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated EBITDA for such Test Period.

“Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect” means, with respect to compliance with any test or covenant hereunder required by the terms of this Agreement to be made on a Pro Forma Basis, that (a) to the extent applicable, the Pro Forma Adjustment shall have been made and (b) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of (or commencing with) the first day of the applicable period of measurement in such test or covenant: (i) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction (A) in the case of a Material Disposition of all or substantially all Equity Interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of the Subsidiaries, shall be excluded, and (B) in the case of a Permitted Acquisition or Investment described in the definition of “Specified Transaction”, shall be included, (ii) any retirement of Indebtedness, (iii) any Indebtedness incurred or assumed by the Company or any of the Subsidiaries in connection therewith and (iv) if any such Indebtedness has a floating or formula rate, such Indebtedness shall be deemed to have accrued an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided that, without limiting the application of the Pro Forma Adjustment pursuant to clause (a) above, the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with (and subject to applicable limitations included in) the definition of Consolidated EBITDA and give effect to operating expense reductions that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Company and the Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of Pro Forma Adjustment; provided, further, that except as specified in the applicable provision requiring Pro Forma Compliance, any determination of Pro Forma Compliance required shall be made assuming that compliance with the financial covenant set forth in Section 6.12 is required with respect to the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b).

“Public Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that do not wish to receive MNPI.

“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.

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

“QFC Credit Support” has the meaning set forth in Section 9.23.

“Qualified Equity Interests” means Equity Interests of the Company other than Disqualified Equity Interests.

“Qualifying Equity Proceeds” means on any date with respect to any expenditure to make a Restricted Payment under Section 6.08(a)(vi) or to make a payment in reliance on Section 6.08(b)(vi), the aggregate amount of Net Proceeds received by the Company in respect of sales and issuances of its Equity Interests (other than Disqualified Equity Interests and other than sales or issuances to directors, officers and employees) during the 270-day period ending on the date of such expenditure, less the amount of all other expenditures made during such period and on or prior to such date (i) for such purposes in reliance on such receipts of Net Proceeds or (ii) representing the use of such Net Proceeds to make Permitted Acquisitions or other Investments (other than Permitted Investments).

“Quotation Day” means, in respect of (a) the determination of the LIBO Rate for any Interest Period for Loans denominated in Dollars, the day that is two Business Days prior to the first day of such Interest Period; (b) the determination of the LIBO Rate for any Interest Period for Loans denominated in Sterling, the first day of such Interest Period; and (c) the determination of the EURIBO Rate for any Interest Period for Loans denominated in Euros, the day which is two Target2 Operating Days prior to the first day of such Interest Period; in each case unless market practice differs for loans in the applicable currency priced by reference to rates quoted in the relevant interbank market, in which case the Quotation Day for such currency shall be determined by the Administrative Agent in accordance with market practice for loans in such currency priced by reference to rates quoted in the relevant interbank market (and if quotations would normally be given by leading banks for loans in such currency priced by reference to rates quoted in the relevant interbank market on more than one day, the Quotation Day shall be the last of those days).

“Reaffirmation Documents” means such affirmations, reaffirmations, addenda, amendments or other modifying or confirmatory documents as the Administrative Agent shall deem appropriate in connection with confirming, maintaining and continuing the Guarantees by the Guarantor Loan Parties of the Obligations, and the Liens securing the Obligations, under the Existing Credit Agreement and the Security Documents thereunder as in effect prior to the effectiveness of this Agreement on the Effective Date, in each case in form and substance reasonably satisfactory to the Administrative Agent.

“Receivable” means any accounts receivable owed to or payable to the Company or a Subsidiary (whether now existing or arising or acquired in the future) arising in the ordinary course of business from the sale of goods or services, all collateral securing such accounts receivable, all contracts and contract rights and all guarantees or other obligations in respect of such accounts receivable, and all proceeds of such accounts receivable.

“Receivables Subsidiary” means a special purpose entity established as a “bankruptcy remote” Subsidiary for the purpose of acquiring Receivables (including collections thereof and any related assets) in connection with any Permitted Receivables Facility, which shall engage in no operations or activities other than those related to such Permitted Receivables Facility, including the issuance of Third Party Interests or other funding of such Permitted Receivables Facilities and activities reasonably related thereto

“Recipient” has the meaning set forth in Section 2.16(a).

**“Reference Time” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the LIBO Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not the LIBO Rate, the time determined by the Administrative Agent in its reasonable discretion.**

“Refinancing Indebtedness” means, in respect of any Indebtedness (the “Original Indebtedness”), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof); provided that (a) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of such Original Indebtedness except by an amount no greater than accrued and unpaid interest with respect to such Original Indebtedness and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses relating to such extension, renewal or refinancing; (b) the stated final maturity of such Refinancing Indebtedness shall not be earlier than that of such Original Indebtedness, and such stated final maturity shall not be subject to any conditions that could result in such stated final maturity occurring on a date that precedes the stated final maturity of such Original Indebtedness; (c) such Refinancing Indebtedness shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default or a change in control or as and to the extent such repayment, prepayment, redemption, repurchase or defeasance would have been required pursuant to the terms of such Original Indebtedness) prior to the earlier of (i) the maturity of such Original Indebtedness and (ii) the date 180 days after the latest Maturity Date in effect on the date of such extension, renewal or refinancing; provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated) of such Refinancing Indebtedness shall be permitted so long as the weighted average life to maturity of such Refinancing Indebtedness shall be longer than the shorter of (x) the weighted average life to maturity of such Original Indebtedness remaining as of the date of such extension, renewal or refinancing and (y) the weighted average life to maturity of each Class of the Term Loans remaining as of the date of such extension, renewal or refinancing (in each case, determined without giving effect to any prepayments that reduce amortization); (d) such Refinancing Indebtedness shall not constitute an obligation (including pursuant to a Guarantee) of any Subsidiary that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become) an obligor in respect of such Original Indebtedness, and shall not constitute an obligation of the Company if the Company shall not have been an obligor in respect of such Original Indebtedness, and, in each case, shall constitute an obligation of such Subsidiary or of the Company only to the extent

of their obligations in respect of such Original Indebtedness; (e) if such Original Indebtedness shall have been subordinated to the Loan Document Obligations, such Refinancing Indebtedness shall also be subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders; and (f) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness (or would have been required to secure such Original Indebtedness pursuant to the terms thereof) or, in the event Liens securing such Original Indebtedness shall have been contractually subordinated to any Lien securing the Loan Document Obligations, by any Lien that shall not have been contractually subordinated to at least the same extent.

“Register” has the meaning set forth in Section 9.04(b)(iv).

“Regulated Bank” means an Approved Commercial Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Governors under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the directors, officers, partners, trustees, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Release” means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

“Release Date” means (i) if any Term Loans are outstanding on an Investment Grade Date, then the first date after the Investment Grade Date when no Term Loans are outstanding and prior to the occurrence of a Non-Investment Grade Date and (ii) if no Term Loans are outstanding on an Investment Grade Date, then such Investment Grade Date.

**“Relevant Governmental Body” means (a) with respect to a Benchmark Replacement in respect of Loans denominated in Dollars, the Board of Governors and/or the NYFRB, or a committee officially endorsed or convened by the Board of Governors and/or the NYFRB or, in each case, any successor thereto and (b) with respect to a Benchmark Replacement in respect of Loans denominated in any other currency, (i) the central bank for the currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (ii) any working group or committee officially endorsed or convened by (A) the central bank for the currency in which such Benchmark Replacement is denominated, (B) any central bank or other supervisor that is responsible for supervising either (1) such Benchmark**



Replacement or (2) the administrator of such Benchmark Replacement, (c) a group of those central banks or other supervisors or (d) the Financial Stability Board or any part thereof.

“Relevant Party” has the meaning set forth in Section 2.16(k)(i)(ii).

“Relevant Territory” means:

(a) a member state of the European Union other than Ireland; or

(b) a jurisdiction having a double taxation agreement (a “Treaty”) with Ireland which has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“Removal Effective Date” has the meaning set forth in Article VIII.

“Repricing Transaction” means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Term Loans with the proceeds of any long-term bank financing or any other financing similar to such loans incurred or guaranteed by the Company or any Loan Party which reduces the effective yield (with the comparative determinations to be made by the Administrative Agent in a manner consistent with generally accepted financial practices, and in any event consistent with the calculation of the Weighted Average Yield) to less than the effective yield (as determined by the Administrative Agent on the same basis) applicable to such Term Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to, or consent under, this Agreement reducing the effective yield (to be determined by the Administrative Agent on the same basis as set forth in preceding clause (a)) of the Term Loans; provided that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver, modification or consent in connection with a Change in Control constitute a Repricing Transaction. Any determination by the Administrative Agent of any effective interest rate as contemplated by preceding clauses (a) and (b) shall be conclusive and binding on all Term Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination.

“Required Incremental TLA and Revolving Lenders” means, at any time, subject to Section 9.02(e), Lenders having Revolving Commitments and Incremental Term A-2021 Loans representing more than 50% of the sum of the aggregate outstanding Revolving Commitments and Incremental Term A-2021 Loans at such time, in each case, excluding the Loans and Commitments of any Defaulting Lender.

“Required Lenders” means, at any time, subject to Section 9.02(e). Lenders having Revolving Exposures, Term Loans and unused Commitments representing more than 50% of the sum of the Aggregate Revolving Exposure, outstanding Term Loans and unused

Commitments at such time, in each case, excluding the Loans and Commitments of any Defaulting Lender.

“Requirements of Law” means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Resolution Authority” means ~~any body which has authority~~ an EEA Resolution Authority or, with respect to exercise any Write-down and Conversion Powers UK Financial Institution, a UK Resolution Authority.

“Restored Lender” has the meaning set forth in Section 2.19.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of, or any other return of capital with respect to, any Equity Interests in the Company or any Subsidiary (other than any dividend or other distribution payable solely in Equity Interests of the Company (other than Disqualified Equity Interests) or options to purchase Equity Interests of the Company (other than Disqualified Equity Interests)).

“Revolving Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Revolving Maturity Date and the date of termination of the Revolving Commitments.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.07, (b) increased or established from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or the Incremental Facility Agreement pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. The initial aggregate amount of the Lenders’ Revolving Commitments as of the Effective Date is \$1,100,000,000.

“Revolving Exposure” means, with respect to any Lender at any time, the sum of the Dollar Equivalent of the outstanding principal amount of such Lender’s Revolving Loans and such Lender’s LC Exposure at such time.

“Revolving Lender” means a Lender with a Revolving Commitment or Revolving Exposure.

“Revolving Lender Parent” means, with respect to any Revolving Lender, any Person in respect of which such Lender is a subsidiary.

“Revolving Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Revolving Maturity Date” means August 28, 2024; provided that if such date is not a Business Day, the Revolving Maturity Date shall be the next preceding Business Day.

“S&P” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business.

“Sale/Leaseback Transaction” means an arrangement relating to property owned by the Company or any Subsidiary whereby the Company or such Subsidiary sells or transfers such property to any Person and the Company or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates.

“Sanctioned Country” means, at any time, a country, region or territory that is itself the subject or target of any country-wide or territory-wide Sanctions (at the Effective Date, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by or controlled by any Person or Persons described in the preceding clause (a) or (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom.

“Scheduled Dispositions” means the Dispositions to be effected after the Effective Date to the extent set forth in the letters provided to the Administrative Agent prior to the Effective Date.

“Scopus Industrial” means Scopus Industrial S/A, a Brazilian corporation and a wholly owned subsidiary of Scopus Tecnologia.

“Scopus Tecnologia” means Scopus Tecnologia Ltda., a Brazilian limited liability company.

“Screen Rate” means (a) in respect of the LIBO Rate for Dollars or Sterling for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for

such currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period and (b) in respect of the EURIBO Rate for any Interest Period, the Euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for such Interest Period as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion).

“SEC” means the United States Securities and Exchange Commission.

“Section 956 Impact” means any incremental tax liability resulting or anticipated to result from the application of Section 956 of the Code (determined without regard to any tax attributes), regardless of a CFC’s current or accumulated earning and profits (as defined within Section 312 of the Code).

“Secured Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Secured Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Secured Parties” has the meaning set forth in the Collateral Agreement.

“Secured Performance Support Obligations” has the meaning set forth in the Collateral Agreement.

“Securities Act” means the United States Securities Act of 1933.

“Security Documents” means the Collateral Agreement, the Foreign Pledge Agreements, the IP Security Agreements, the Reaffirmation Documents, the Pledge Agreement and each other security agreement or other instrument or document executed and delivered pursuant to Sections 5.03 or 5.12 to secure the Obligations.

“Seller’s Retained Interests” means the debt or equity interests held by the Company or a Subsidiary in a Receivables Subsidiary to which Receivables have been transferred in a Permitted Receivables Facility permitted by Section 6.05, including any Intercompany Permitted Receivables Facility Note or equity received in consideration for the Receivables transferred.

“Senior Bridge Facility” means any senior secured or unsecured bridge loan facility provided by banks and other financial institutions to the Company to provide a portion of the cash consideration payable for a Permitted Material Acquisition.

“Senior Bridge Loans” means any bridge loans incurred in connection with a Permitted Material Acquisition.

“Series” has the meaning set forth in Section 2.20(b).

“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the NYFRB’s Website, 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.

“Specified Acquisition” means the acquisition of Cardtronics plc, a public limited company incorporated in England and Wales (the “Target”), by the Company pursuant to that certain Acquisition Agreement, dated as of January 25, 2021, among the Company, the Target and Cardtronics USA, Inc., a Delaware corporation.

“Specified ECF Percentage” means, with respect to any fiscal year of the Company, (a) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 2.25 to 1.00, 50%, (b) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 1.50 to 1.00 but less than or equal to 2.25 to 1.00, 25%, and (c) if the Secured Leverage Ratio as of the last day of such fiscal year is less than or equal to 1.50 to 1.00, 0%.

“Specified Representations” means the representations and warranties set forth in Sections 3.01(a) (solely with respect to the Company and each Foreign Borrower), 3.02, 3.03(c) (solely with respect to the Loan Parties), 3.03(d) (solely with respect to this Agreement and any then-existing indentures, other than with regard to any agreements governing Indebtedness being repaid in connection with the applicable Limited Condition Acquisition), 3.08, 3.12, 3.14, 3.15 and 3.16 (solely with respect to the use of proceeds).

“Specified Time” means (a) with respect to the LIBO Rate, 11:00 a.m., London time, and (b) with respect to the EURIBO Rate, 11:00 a.m., Brussels time.

“Specified Transaction” means, with respect to any period, any Investment, Disposition, incurrence or repayment of Indebtedness or Restricted Payment that by the terms of this Agreement requires “Pro Forma Compliance” with a test or covenant hereunder or requires such test or covenant to be calculated on a “Pro Forma Basis”.

“Standard Receivables Undertakings” means any representations, warranties, covenants and indemnities made by, and repurchase and other obligations of, the Company or a

Subsidiary that are customary for a seller or servicer of assets transferred in connection with a Permitted Receivables Facility, as determined in good faith by the Company or such Subsidiary.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Board of Governors to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board of Governors). Such reserve percentage shall include those imposed pursuant to such Regulation D. Eurocurrency Loans denominated in Dollars shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Sterling” or “£” means lawful currency of the United Kingdom.

“Subordinated Indebtedness” of any Person means any Indebtedness of such Person that is subordinated in right of payment to any other Indebtedness of such Person.

“Subsequent Maturity Date” has the meaning set forth in Section 2.04(c).

“subsidiary” means, with respect to any Person (the “parent”) at any date, (a) any Person the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date and (b) any other Person (i) of which Equity Interests representing more than 50% of the equity value or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Company.

“Subsidiary Loan Party” means each Subsidiary that is a “Grantor” or “Guarantor” under and as defined in the Collateral Agreement. Notwithstanding anything to the contrary, no CFC shall be a Subsidiary Loan Party. Pursuant to Section 9.14(e), as of the Effective Date, Radiant Payment Services, LLC will no longer be a Subsidiary Loan Party.

“Supplier” has the meaning set forth in Section 2.16(k)(ii).

“Supported QFC” has the meaning set forth in Section 9.23.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of real or personal property, or a combination thereof, (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee is

deemed to own the property so leased for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” means, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease (determined, in the case of a Synthetic Lease providing for an option to purchase the leased property, as if such purchase were required at the end of the term thereof) that would appear on a balance sheet of such Person prepared in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations. For purposes of Section 6.02, a Synthetic Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Target” has the meaning given thereto in the definition of “Specified Acquisition”.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system.

“Target2 Operating Day” means any day (other than a Saturday or Sunday) on which both (a) TARGET2 (or, if TARGET2 ceases to be operative, such other payment system as shall be determined by the Administrative Agent to be a replacement therefor for purposes hereof) is open for the settlement of payments in Euros and (b) banks in London, England are open for general business.

“Tax Administrative Questionnaire” means a Tax Administrative Questionnaire in a form supplied by the Administrative Agent.

“Taxes” means any present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

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

“Term Commitment” means, with respect to each Lender, such Lender’s Delayed Draw Term Commitment and Initial Term Commitment, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Term Commitment, as applicable. The initial aggregate amount of the Lenders’ Term Commitments as of the Effective Date is \$750,000,000.

“Term Lender” means a Lender with a Term Commitment or an outstanding Term Loan.

“Term Loans” means the Delayed Draw Term Loans and the Initial Term Loans.

“Term Maturity Date” means August 28, 2026; provided that if such date is not a Business Day, the Term Maturity Date shall be the next preceding Business Day.

“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Term SOFR Notice” means a notification by the Administrative Agent to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, of the occurrence of a Term SOFR Transition Event.

“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-In Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.13(a) that is not Term SOFR.

“Test Period” means, at any date of determination, the period of four consecutive fiscal quarters of the Company then last ended.

“Third Party Interests” means, with respect to any Permitted Receivables Facility, notes, bonds or other debt instruments, beneficial interests in a trust, undivided ownership interests in Receivables or other securities issued for cash consideration by the relevant Receivables Subsidiary to banks, financing conduits, investors or other financing sources (other than the Company and the Subsidiaries) the proceeds of which are used to finance, in whole or in part, the purchase by such Receivables Subsidiary of Receivables in a Permitted Receivables Facility. The amount of any Third Party Interests at any time shall be deemed to equal the aggregate principal, stated or invested amount of such Third Party Interests which are outstanding at such time.

“Transaction Costs” means the fees and expenses incurred in connection with the Transactions.

“Transactions” means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance and use of Letters of Credit under this Agreement.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Eurocurrency Rate or the Alternate Base Rate.

~~“UK Bail-In Legislation” means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other~~



~~financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).~~

“UK Borrower” means any Borrower (i) that is organized or formed under the laws of the United Kingdom or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the United Kingdom.

“UK Borrower DTTP Filing” means an HMRC Form DTTP2 duly completed and filed by the relevant Loan Party, which:

(a) where it relates to a UK Treaty Lender that is a Lender on the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence opposite that Lender’s name in Schedule 1.1(i), and

(i) where the Loan Party is a Loan Party on the date of this Agreement, is filed with HMRC within 30 Business Days after the date of this Agreement; or

(ii) where the Loan Party becomes a Loan Party after the date of this Agreement, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement; or

(b) where it relates to a UK Treaty Lender that becomes a Lender after the Effective Date, contains the scheme reference number and jurisdiction of tax residence in the relevant Assignment and Assumption Agreement, and

(i) where the Loan Party is a Loan Party on the date such UK Treaty Lender becomes a Lender under this Agreement (“New Lender Date”), is filed with HMRC within 30 Business Days after the New Lender Date; or

(ii) where the Loan Party becomes a Loan Party under this Agreement after the New Lender Date, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement.

“UK Corporation Tax Act” means the Corporation Tax Act 2009 of the United Kingdom.

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

(a) a Lender:

(i) which is a bank (as defined for the purpose of section 879 of the UK Taxes Act) making an advance under a Loan Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the UK Corporation Tax Act; or

(ii) in respect of an advance made under a Loan Document by a person that was a bank (as defined for the purpose of section 879 of the UK Taxes Act) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(b) a Lender which is:

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

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

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

(c) a UK Treaty Lender.

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

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

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

(b) a partnership each member of which is (A) a company resident in the United Kingdom or (B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the UK Corporation Tax Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK Corporation Tax Act; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 19 of the UK Corporation Tax Act) of that company.

“UK Taxes Act” means the Income Tax Act 2007 of the United Kingdom.

“UK Treaty Lender” means a Lender which is treated as a resident of a UK Treaty State for the purposes of the Treaty, does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected and, subject to the completion of procedural formalities, meets all other conditions in the UK Treaty for full exemption from tax imposed by the United Kingdom.

“UK Treaty State” means a jurisdiction having a double taxation agreement (a “UK Treaty”) with the United Kingdom, which makes provision for full exemption from tax imposed by the United Kingdom on interest.

**“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.**

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unrestricted Cash” means, as of any date, unrestricted cash and cash equivalents owned by the Company and the Subsidiaries that are not, and are not presently required under the terms of any agreement or other arrangement binding on the Company or any Subsidiary on such date to be, (a) pledged to or held in one or more accounts under the control of one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations), (b) otherwise segregated from the general assets of the Company and the Subsidiaries, in one or more special accounts or otherwise, for the purpose of securing or providing a source of payment for Indebtedness or other obligations that are or from time to time may be owed to one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations) or (c) held by a Subsidiary that is not wholly-owned or that is subject to restrictions (in the case of foreign laws or approvals of foreign Governmental Authorities applicable to Foreign Subsidiaries, of which the Company has actual knowledge) on

its ability to pay dividends or distributions; provided that Unrestricted Cash on any date will include the pro rata share (based on their relative holdings of Equity Interests entitled to dividends and distributions) of the Company and its wholly-owned Subsidiaries of the Unrestricted Cash of any non-wholly Subsidiary not subject to such restrictions. It is agreed that cash and cash equivalents held in ordinary deposit or security accounts and not subject to any existing or contingent restrictions on transfer by the Company or a Subsidiary will not be excluded from Unrestricted Cash by reason of setoff rights or other Liens created by law or by applicable account agreements in favor of the depository institutions or security intermediaries.

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

“U.S. Special Resolution Regime” has the meaning set forth in Section 9.23.

“U.S. Tax Certificate” has the meaning set forth in Section 2.16(f)(ii)(D)(2).

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

“VAT” means: (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/122); and (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Weighted Average Yield” means, at any time, with respect to any Loan, the weighted average yield to stated maturity of such Loan based on the interest rate or rates applicable thereto and giving effect to all upfront or similar fees or original issue discount payable to the Lenders advancing such Loan with respect thereto and to any interest rate “floor”. For purposes of determining the Weighted Average Yield of any floating rate Indebtedness at any time, the rate of interest applicable to such Indebtedness at such time shall be assumed to be the rate applicable at all times prior to maturity; provided that appropriate adjustments shall be made for any changes in rates of interest provided for in the documents governing such Indebtedness (other than those resulting from fluctuations in interbank offered rates, prime rates, Federal funds rates or other external indices not influenced by the financial performance or creditworthiness of the Company or any other Subsidiary). Determinations of the Weighted Average Yield of any Loans for purposes of Section 2.20 shall be made by the Administrative Agent at the request of the Company and in a manner determined by the Administrative Agent to be consistent with accepted financial practice, and any such determination shall be conclusive, absent manifest error.

“wholly-owned”, when used in reference to a subsidiary of any Person, means that all the Equity Interests in such subsidiary (other than directors’ qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly-owned subsidiary of such Person or any combination thereof.

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

“Withholding Agent” means any Loan Party or the Administrative Agent.

Write-Down and Conversion Powers” means:

~~(a) (a) in relation with respect~~ to any ~~Bail-In Legislation described in the EU Bail-In Legislation Schedule~~ 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 ~~as such in relation to that Bail-In Legislation~~ in the EU Bail-In Legislation Schedule; and

~~(b) (b) in relation with respect~~ to the United Kingdom, any ~~other~~ powers of the applicable ~~Bail-In Legislation:~~

~~(i) any powers~~ Resolution Authority under ~~that the~~ Bail-In Legislation ~~to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution;~~ to cancel, reduce, modify or change the form of a liability of ~~such a person~~ any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; ~~and~~

~~(ii) any similar or analogous powers under that Bail-In Legislation; and~~

~~(c) in relation to any UK Bail-In Legislation:~~

~~(i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any~~

~~obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and~~

~~(ii) any similar or analogous powers under that UK Bail-In Legislation.~~

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Class (e.g., a “Revolving Loan” or “Revolving Borrowing”) or by Type (e.g., a “Eurocurrency Loan” or “Eurocurrency Borrowing”) or by Class and Type (e.g., a “Eurocurrency Revolving Loan” or “Eurocurrency Revolving Borrowing”).

SECTION 1.03. Terms Generally. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) references to “the date hereof” and “the date of this Agreement” shall be deemed to refer to the Effective Date.

(b) In this Agreement, where it relates to a Dutch entity, a reference to:

(i) a necessary action to authorise, where applicable, includes without limitation:

(A) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and

(B) obtaining unconditional positive advice (*advies*) from each competent works council and, if such advice is not unconditional, confirmation from the Company that the conditions set by the works' council are and will be complied with;

(ii) a winding-up, administration or dissolution includes a Dutch entity being:

(A) declared bankrupt (*failliet verklaard*);

(B) dissolved (*ontbonden*);

(iii) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;

(iv) an administrator includes a *bewindvoerder*;

(v) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(vi) an attachment includes a *beslag*.

SECTION 1.04. Accounting Terms; GAAP; Pro Forma Calculations. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed in accordance with GAAP as in effect from time to time; provided that (i) if the Company, by notice to the Administrative Agent, shall request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent or the Required Lenders, by notice to the Company, shall request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith and (ii) notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, (A) without giving effect to (I) any election under Statement of Financial Accounting Standards 159, The Fair Value Option for Financial Assets and Financial Liabilities, or any successor thereto (including pursuant to the Accounting Standards Codification), or under any similar accounting standard, to value any Indebtedness of the Company or any Subsidiary at "fair value" or any similar valuation standard, as defined therein and (II) unless the Company notifies the Administrative Agent in writing of its election to cease doing so (which notice shall be included as part of a Compliance Certificate), any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842) ("FAS 842"), to the extent such adoption would require (x) treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2015 or (y)

recognizing liabilities on the balance sheet with respect to operating leases under FAS 842, and (B) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. For purposes of the foregoing, any change by the Company in its accounting principles and standards to adopt International Financial Reporting Standards, regardless of whether required by applicable laws and regulations, will be deemed a change in GAAP.

(b) [Reserved]

(c) For purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Material Acquisition or Material Disposition occurs, Consolidated EBITDA, the Leverage Ratio and the Secured Leverage Ratio shall be calculated with respect to such period and with respect to such Material Acquisition or Material Disposition on a Pro Forma Basis. In the event that the Revolving Commitments are terminated (whether at maturity or otherwise), any provision herein requiring pro forma compliance with Section 6.12 (including by a level determined by reference to Section 6.12) will be deemed to refer to the financial covenant in Section 6.12 most recently in effect prior to such termination.

Notwithstanding the foregoing, none of the Company, the Administrative Agent and the Required Lenders may give a notice requesting any amendment pursuant to clause (i) of the proviso to the first sentence of this Section in respect of the proposed or actual adoption by the Company of Mark-to-Market Pension Accounting as permitted by Accounting Standards Codification (ASC) 715-30, unless the accounting principles or application thereof proposed to be adopted or adopted, as the case may be, or the consequences of such adoption, differ materially from those described in the definition of “Mark-to-Market Pension Accounting” herein, including the description set forth in Annex A.

SECTION 1.05. Status of Obligations. In the event that the Company or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Company shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Loan Document Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Loan Document Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” under and in respect of any indenture or other agreement or instrument under which such other Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.



SECTION 1.06. Currency Translation. (a) The Administrative Agent shall determine the Dollar Equivalent of any Letter of Credit denominated in Euros or Sterling as of the date of the issuance thereof and as of each subsequent date on which such Letter of Credit shall be renewed or extended or the stated amount of such Letter of Credit shall be increased, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Letter of Credit until the earlier of the next required calculation thereof pursuant to this Section 1.06(a) and the next calculation thereof pursuant to Section 1.06(c).

(b) The Administrative Agent shall determine the Dollar Equivalent of any Borrowing denominated in Euros or Sterling as of the date of the commencement of the initial Interest Period therefor and as of the date of the commencement of each subsequent Interest Period therefor, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date that is three Business Days prior to the date on which the applicable Interest Period shall commence, and each such amount shall be the Dollar Equivalent of such Borrowing until the earlier of the next required calculation thereof pursuant to this Section 1.06(b) and the next calculation thereof pursuant to Section 1.06(c).

(c) The Administrative Agent may, at its election, determine the Dollar Equivalent of any Borrowing or Letter of Credit denominated in Euros or Sterling on any other Business Day.

(d) The Administrative Agent shall notify the Borrowers, the applicable Lenders and the applicable Issuing Bank of each calculation of the Dollar Equivalent of each Letter of Credit, Borrowing and LC Disbursement.

(e) Notwithstanding any other provision of this Agreement, amounts denominated in a currency other than Dollars will be converted to Dollars for the purposes of calculating the Leverage Ratio and the Secured Leverage Ratio at the exchange rates then used by the Company in its financial statements.

(f) Where the permissibility of a transaction (other than the issuance or incurrence of Indebtedness, which shall be subject to the following paragraph (g)), depends upon compliance with, or is determined by reference to, amounts stated in Dollars, any amount in respect of such transaction stated in another currency shall be translated to Dollars at the Exchange Rate then in effect at the time such transaction is entered into and the permissibility of actions taken hereunder shall not be affected by subsequent fluctuations in exchange rates.

(g) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar Equivalent principal amount of Indebtedness denominated in a currency other than Dollars shall be calculated based on the relevant Exchange Rate in effect on the date such Indebtedness was incurred, in the case of Indebtedness (other than revolving credit debt), or on the date when the commitments thereunder are first available to be drawn, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other

Indebtedness denominated in a currency other than Dollars, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant Exchange Rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased except by an amount no greater than accrued and unpaid interest thereon and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses related thereto. The principal amount in Dollars of any Indebtedness incurred to extend, replace, refund, refinance, renew or defease other Indebtedness, if incurred in a different foreign currency from the Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, shall be calculated by the Administrative Agent based on the Exchange Rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance.

SECTION 1.07. Borrower Agent. Each Foreign Borrower hereby appoints the Company as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of financial reports, receipt and payment of Loan Document Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with the Administrative Agent, the Issuing Banks or any Lender, and each Foreign Borrower releases the Company from any restrictions on representing several Persons and self-dealing under any applicable Requirements of Law (the Company, acting on its behalf and on behalf of any Foreign Borrower pursuant to such agency, the "Borrower Agent"). The Company hereby accepts such appointment as representative and agent of each Foreign Borrower. Notwithstanding any other provision of this Agreement:

(a) the Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Borrowing Request or any Interest Election Request) delivered on behalf of a Foreign Borrower by the Borrower Agent;

(b) the Administrative Agent, the Issuing Banks and the Lenders may give any notice to or make any other communication with any Foreign Borrower hereunder to or with the Borrower Agent;

(c) the Administrative Agent, the Issuing Banks and the Lenders shall have the right, in its discretion, to deal exclusively with the Borrower Agent for any or all purposes under the Loan Documents; and

(d) each Foreign Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by the Borrower Agent shall be binding upon and enforceable against it.

SECTION 1.08. Obligations Joint and Several. Each agreement in any Loan Document by any Foreign Borrower to make any payment, to take any action or otherwise to be bound by the terms thereof is a joint and several agreement of all the Foreign Borrowers, and each obligation of any Foreign Borrower under any Loan Document shall be a joint and several obligation of all the Foreign Borrowers. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, no Foreign Borrower shall be jointly and severally liable with the Company or any Domestic Subsidiary for any Obligation pursuant to any Loan Document.

SECTION 1.09. Interest Rates; LIBOR Notification. The interest rate on Eurocurrency Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration Limited (together with any successor to the ICE Benchmark Administration Limited, the “IBA”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurocurrency Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.13(b)(ii), such Section provides, or upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, Sections 2.13(a)(ii) and (a)(iii) provide, a mechanism for determining an alternative rate of interest. The Administrative Agent will promptly notify the Company, pursuant to Section 2.13, ~~in advance~~ of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of the term “LIBO Rate” (or “EURIBO Rate”, as applicable) or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Section 2.13(a)(ii) or (iii), whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Section 2.13(a)(iv)), including whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.13(~~b~~), will be similar to, or

produce the same value or economic equivalence of, the LIBO Rate (or the EURIBO Rate, as applicable) or have the same volume or liquidity as did the London interbank offered rate (or the euro interbank offered rate, as applicable) prior to its discontinuance or unavailability.

SECTION 1.10. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

## ARTICLE II

### The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees (a) to make an Initial Term Loan in Dollars to the Company on the Effective Date in an aggregate principal amount not exceeding its Initial Term Commitment, (b) to make a Delayed Draw Term Loan in Dollars to the Company at any time on or after the Effective Date and on or prior to December 31, 2019, in an aggregate principal amount not exceeding its Delayed Draw Term Commitment and (c) to make Revolving Loans denominated in Dollars, Euros or Sterling to the Borrowers from time to time during the Revolving Availability Period in an aggregate principal amount that will not result in (i) such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment, (ii) the Aggregate Revolving Exposure exceeding the Aggregate Revolving Commitment or (iii) the Foreign Borrower Exposure exceeding \$400,000,000. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. Loans and Borrowings. (a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class, Type and currency made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. The Initial Term Loans and the Delayed Draw Term Loans shall, upon funding, constitute a single Class of Term Loans hereunder.

(b) Subject to Section 2.13, (i) each Borrowing denominated in Dollars shall be comprised entirely of ABR Loans or Eurocurrency Loans, as the applicable Borrower, or the Borrower Agent on its behalf, may request in accordance herewith, (ii) each Borrowing

denominated in Euros or Sterling shall be comprised entirely of Eurocurrency Loans and (iii) each Borrowing by a Foreign Borrower shall be comprised entirely of Eurocurrency Loans; provided that all Borrowings made on the Effective Date must be made by the Company as ABR Borrowings unless the applicable Borrower, or the Borrower Agent on its behalf, shall have given the notice required for a Eurocurrency Borrowing under Section 2.03 and provided an indemnity letter, in form and substance reasonably satisfactory to the Administrative Agent, extending the benefits of Section 2.15 to the Lenders in respect of such Borrowings. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that (i) a Eurocurrency Borrowing that results from a continuation of an outstanding Eurocurrency Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing and (ii) a Eurocurrency Borrowing denominated in Euros or Sterling may be in the amount that is required to finance the reimbursement of an LC Disbursement denominated in such currency as contemplated by Section 2.04(f) or in an amount that is equal to the difference between \$400,000,000 and the Foreign Borrower Exposure prior to giving effect to such Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Revolving Commitment or that is required to finance the reimbursement of an LC Disbursement denominated in Dollars as contemplated by Section 2.04(f). Borrowings of more than one Type, Class and currency may be outstanding at the same time; provided that there shall not at any time be more than a total of 15 (or such greater number as may be agreed to by the Administrative Agent) Eurocurrency Borrowings outstanding.

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

SECTION 2.03. Requests for Borrowings. To request a Revolving Borrowing or Term Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such request by delivery of an executed written Borrowing Request (a) in the case of a Eurocurrency Borrowing denominated in Dollars, not later than 10:00 a.m., Local Time, two Business Days before the date of the proposed Borrowing, (b) in the case of a Eurocurrency Borrowing denominated in Euros or Sterling, not later than 10:00 a.m., Local Time, three Business Days before the date of the proposed Borrowing or (c) in the case of an

ABR Borrowing, not later than 3:00 p.m., New York City time, on the day of the proposed Borrowing. Each such written Borrowing Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

- (i) the Borrower of such Borrowing;
- (ii) whether the requested Borrowing is to be a Term Borrowing, an Incremental Term Borrowing of a particular Series or a Revolving Borrowing;
- (iii) the currency and aggregate amount of such Borrowing;
- (iv) the date of such Borrowing, which shall be a Business Day;
- (v) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;
- (vi) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (vii) the location and number of the account of the applicable Borrower (or the applicable Borrower's designee) to which funds are to be disbursed or, in the case of any ABR Revolving Borrowing requested to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), the identity of the Issuing Bank that made such LC Disbursement.

If no election as to the Type of Borrowing is specified, then, if the specified currency of such Borrowing is (a) Dollars, the requested Borrowing shall be an ABR Borrowing, and (b) Euros or Sterling, the requested Borrowing shall be a Eurocurrency Borrowing. If no currency is specified with respect to any requested Revolving Loan, the applicable Borrower shall be deemed to have specified Dollars. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the applicable Borrower shall be deemed to have selected an Interest Period of seven days' duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, each Borrower may request the issuance of Letters of Credit for its own account or, so long as the Company is a joint and several co-applicant with respect thereto, the account of any Subsidiary, denominated in Dollars, Euros or Sterling and in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Revolving Availability Period. The Company unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the account of any

Subsidiary as provided in the first sentence of this paragraph, it will be fully responsible for the reimbursement of LC Disbursements, the payment of interest thereon and the payment of fees due under Section 2.11(b) to the same extent as if it were the sole account party in respect of such Letter of Credit. Each Existing Letter of Credit shall be deemed, for all purposes of this Agreement (including paragraphs (d) and (f) of this Section), to be a Letter of Credit issued hereunder for the account of the applicable Borrower. Notwithstanding anything contained in any letter of credit application furnished to any Issuing Bank in connection with the issuance of any Letter of Credit, (i) all provisions of such letter of credit application purporting to grant liens in favor of the Issuing Bank to secure obligations in respect of such Letter of Credit shall be disregarded, it being agreed that such obligations shall be secured to the extent provided in this Agreement and in the Security Documents, and (ii) in the event of any inconsistency between the terms and conditions of such letter of credit application and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, the Borrowers shall not request, and no Issuing Bank shall have any obligation to issue, any Letter of Credit the proceeds of which would be made available to any Person (A) to fund any activity or business of or with any Sanctioned Person, or in any Sanctioned Country, in each case except to the extent permissible for a Person required to comply with Sanctions, or (B) in any manner that would result in a violation of any Sanctions by any party to this Agreement.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit or the amendment, renewal or extension of an outstanding Letter of Credit, the applicable Borrower, or the Borrower Agent on its behalf, shall hand deliver or fax (or transmit by electronic communication, if arrangements for doing so have been approved by the recipient) to the applicable Issuing Bank and the Administrative Agent, reasonably in advance of the requested date of issuance, amendment, renewal or extension, a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the requested date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount and currency of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to enable the applicable Issuing Bank to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the applicable Borrower, or the Borrower Agent on its behalf, also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any such request. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon each issuance, amendment, renewal or extension of any Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment and (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment. The Company may, at any time and from time to time, reduce the LC Commitment of any Issuing Bank with the consent of such Issuing Bank; provided that the Company shall not reduce the LC Commitment of any Issuing Bank if,

after giving effect to such reduction, the conditions set forth in clause (ii) above shall not be satisfied. Each Issuing Bank agrees that it shall not permit any issuance, amendment, renewal or extension of a Letter of Credit to occur unless it shall have given to the Administrative Agent written notice thereof required under paragraph (l) of this Section.

An Issuing Bank shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing the Letter of Credit, or any law, rule or regulation applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which such Issuing Bank in good faith deems material to it; or (ii) the issuance of the Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) unless otherwise consented to by the applicable Issuing Bank and (ii) the date that is five Business Days prior to the Revolving Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the applicable Borrower, or the Borrower Agent on its behalf, and the applicable Issuing Bank pursuant to which the expiration date of such Letter of Credit shall automatically be extended for a period of up to 12 months (but not to a date later than the date set forth in clause (ii) above), subject to a right on the part of such Issuing Bank to prevent any such renewal from occurring by giving notice to the beneficiary in advance of any such renewal; and provided, further, that if there exist any Incremental Revolving Commitments having a maturity date later than the Revolving Maturity Date (the "Subsequent Maturity Date"), then, so long as the aggregate LC Exposure in respect of Letters of Credit expiring after the Revolving Maturity Date will not exceed the lesser of \$50,000,000 and the aggregate amount of such Incremental Revolving Commitments, the applicable Borrower, or the Borrower Agent on its behalf, may request the issuance of a Letter of Credit that shall expire at or prior to the close of business on the earlier of (A) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (B) the date that is five Business Days prior to the Subsequent Maturity Date. Notwithstanding the foregoing, any Letter of Credit issued hereunder may, in the sole discretion of the applicable Issuing Bank, expire after the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date) but on or before the date that is 90 days after the Revolving Maturity Date (or the Subsequent Maturity Date); provided that each Borrower hereby agrees that it shall in the case of any such Letter of Credit issued for its account provide cash collateral in an amount equal to 102% of the LC Exposure in respect of any such outstanding Letter of Credit to the applicable Issuing Bank at least five Business Days



prior to the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), which such amount shall be (A) deposited by the applicable Borrower in an account with and in the name of such Issuing Bank and (B) held by such Issuing Bank for the satisfaction of the applicable Borrower's reimbursement obligations in respect of such Letter of Credit until the expiration of such Letter of Credit. Any Letter of Credit issued with an expiration date beyond the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date, as applicable) shall, to the extent of any undrawn amount remaining thereunder on the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), cease to be a "Letter of Credit" outstanding under this Agreement for purposes of the Revolving Lenders' obligations to participate in Letters of Credit pursuant to clause (d) below.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or any Revolving Lender, the Issuing Bank that is the issuer thereof hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Revolving Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank under such Letter of Credit and not reimbursed by the applicable Borrower on the date due as provided in paragraph (f) of this Section, or of any reimbursement payment required to be refunded to a Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or any reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender further acknowledges and agrees that, in issuing, amending, renewing or extending any Letter of Credit, the applicable Issuing Bank shall be entitled to rely, and shall not incur any liability for relying, upon the representation and warranty of the applicable Borrower deemed made pursuant to Section 4.02.

(e) Disbursements. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit and shall promptly notify the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, by telephone (confirmed by hand delivery or facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(f) Reimbursements. If an Issuing Bank shall make an LC Disbursement in respect of a Letter of Credit, the applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement, in the currency in which such LC Disbursement is made, not later than 12:00 noon, Local Time, on the Business

Day immediately following the day that the applicable Borrower, or the Borrower Agent on its behalf, receives notice of such LC Disbursement; provided that, if the amount of such LC Disbursement is not greater than the amount then available to be borrowed as a Revolving Borrowing by the applicable Borrower, the applicable Borrower, or the Borrower Agent on its behalf, may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with a Revolving Borrowing, in an amount equal to the amount of such LC Disbursement and, to the extent so financed, the applicable Borrower's obligation to make such payment shall be discharged and replaced by the resulting Revolving Borrowing. If the applicable Borrower fails to reimburse any LC Disbursement by the time specified above, the Administrative Agent shall notify each Revolving Lender of such failure, the payment then due from the applicable Borrower in respect of the applicable LC Disbursement and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the amount then due from the applicable Borrower in the applicable currency, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the applicable Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Revolving Lenders and such Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse an Issuing Bank for an LC Disbursement (other than the funding of an ABR Revolving Borrowing as contemplated above) shall not constitute a Loan and shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(g) Obligations Absolute. The applicable Borrower's obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section is absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision thereof or hereof, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this paragraph, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Borrower's obligations hereunder. None of the Administrative Agent, the Lenders, the Issuing Banks or any of their Related Parties shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in

interpretation of technical terms or any other act, failure to act or other event or circumstance; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the applicable Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by each Borrower to the extent permitted by applicable law) suffered by a Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of bad faith, gross negligence or willful misconduct on the part of an Issuing Bank (as determined by a court of competent jurisdiction in a final and nonappealable judgment), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the applicable Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the applicable Borrower reimburses such LC Disbursement in full, (i) in the case of any LC Disbursement denominated in Dollars, at the rate per annum then applicable to ABR Revolving Loans, and (ii) in the case of any LC Disbursement denominated in Euros or Sterling, at the Overnight Eurocurrency Rate plus the Applicable Rate then applicable to Eurocurrency Revolving Loans; provided that, if the applicable Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then Section 2.12(c) shall apply. Interest accrued pursuant to this paragraph shall be paid to the Administrative Agent, for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (f) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment, and shall be payable on demand or, if no demand has been made, on the date on which the applicable Borrower reimburses the applicable LC Disbursement in full.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrowers or the Borrower Agent receive notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, a Majority in Interest of the Revolving Lenders) demanding the deposit of cash collateral pursuant to this paragraph, each Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the portion of the LC Exposure attributable to each Letter of Credit issued for the account of such Borrower and outstanding on such date, plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with

respect to any Borrower described in clause (i) or (j) of Article VII. Amounts payable under the preceding sentence in respect of any Letter of Credit or LC Disbursement shall be payable in the currency of such Letter of Credit or LC Disbursement. The Borrowers also shall deposit cash collateral in accordance with this paragraph as and to the extent required by Section 2.10(b) or 2.19. Each such deposit by any Borrower shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of such Borrower under this Agreement and the other Loan Documents. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made as mutually agreed by the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, and at the applicable Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the applicable Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of a Majority in Interest of the Revolving Lenders), be applied to satisfy other obligations of the applicable Borrower under this Agreement. If a Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three Business Days after all Events of Default have been cured or waived. If a Borrower is required to provide an amount of cash collateral hereunder pursuant to Section 2.10(b), such amount (to the extent not applied as aforesaid) shall be returned to such Borrower as and to the extent that, after giving effect to such return, the Aggregate Revolving Exposure would not exceed the Aggregate Revolving Commitment and no Default shall have occurred and be continuing.

(j) Designation of Additional Issuing Banks. The Company may, at any time and from time to time, with the consent of the Administrative Agent (which consent shall not be unreasonably withheld), designate as additional Issuing Banks one or more Revolving Lenders that agree to serve in such capacity as provided below. The acceptance by a Revolving Lender of an appointment as an Issuing Bank hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent, executed by the Company, the Administrative Agent and such designated Revolving Lender and, from and after the effective date of such agreement, (i) such Revolving Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein to the term "Issuing Bank" shall be deemed to include such Revolving Lender in its capacity as an issuer of Letters of Credit hereunder.

(k) Termination of an Issuing Bank. The Company may terminate the appointment of any Issuing Bank as an "Issuing Bank" hereunder by providing a written notice thereof to such Issuing Bank, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Issuing Bank acknowledging receipt of such notice and (ii) the 10th Business Day following the date of the delivery thereof; provided that no such termination shall become effective until and unless the LC Exposure attributable to Letters

of Credit issued by such Issuing Bank (or its Affiliates) shall have been reduced to zero. At the time any such termination shall become effective, the Company shall pay all unpaid fees accrued for the account of the terminated Issuing Bank pursuant to Section 2.11(b). Any Issuing Bank that ceases to be a Lender for any reason shall concurrently cease to be an Issuing Bank. Notwithstanding the effectiveness of any such termination, the terminated Issuing Bank shall remain a party hereto and shall continue to have all the rights of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not issue any additional Letters of Credit.

(l) Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) reasonably prior to the time that such Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the stated amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date, amount and currency of such LC Disbursement, (iv) on any Business Day on which a Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount and currency of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

(m) LC Exposure Determination. For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at the time of determination.

(n) Tax Matters. Notwithstanding anything to the contrary herein, no CFC shall be responsible for the reimbursement of LC Disbursements, the payment of interest thereon, and the payment of fees due under Section 2.11(b) with respect thereto, to the extent that the applicable Letter of Credit was issued for the account of the Company or any Domestic Subsidiary.

SECTION 2.05. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the applicable Borrower by promptly remitting the amounts so received, in like funds, to the account of such Borrower maintained with the Administrative

Agent and designated by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request or, in the case of any Borrowing made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), to the Issuing Bank specified by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice in writing from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.05 and may, in reliance on such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the applicable Borrower, the interest rate applicable to ABR Revolving Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.06. Interest Elections. (a) Each Revolving Borrowing and Term Borrowing initially shall be of the Type and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the applicable Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the applicable Borrower, or the Borrower Agent on its behalf, may elect to continue such Borrowing or, in the case of a Borrowing denominated in Dollars, to convert such Borrowing to a Borrowing of a different Type and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower, or the Borrower Agent on its behalf, may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such election by delivery of an executed written Interest Election Request by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such written Interest Election Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is to be a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of seven days' duration.

(c) Promptly following receipt of an Interest Election Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall (i) in the case of a Term Borrowing, be continued as a Eurocurrency Borrowing for an additional Interest Period of seven days, (ii) in the case of a Revolving Borrowing denominated in Dollars, be converted to an ABR Borrowing, and (iii) in the case of a Revolving Borrowing denominated in Euros or Sterling, be continued as a Borrowing of the same Type with an Interest Period of seven days' duration. Notwithstanding any contrary provision hereof, if an Event of Default under clause (i) or (j) of Article VII has occurred and is continuing with respect to any Borrower, or if any other Event of Default has occurred and is continuing and the Administrative Agent, at the request of a Majority in Interest of Lenders of any Class, has notified the Company of the election to give effect to this sentence on account of such other Event of Default, then, in each such case, so long as such Event of Default is continuing, (i) no outstanding Borrowing of such Class denominated in Dollars may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing of such Class denominated in Dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.07 Termination and Reduction of Commitments. (a) Unless previously terminated, (i) the Initial Term Commitments shall automatically terminate at 5:00 p.m., New York City time, on the Effective Date, (ii) the Delayed Draw Term Commitments shall automatically terminate on the earlier of (A) the funding of any Delayed Draw Term Loans and (B) 5:00 p.m., New York City time, on December 31, 2019, and (iii) the Revolving Commitments shall automatically terminate on the Revolving Maturity Date.

(b) The Company may at any time terminate, or from time to time permanently reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Company shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10, the Aggregate Revolving Exposure would exceed the Aggregate Revolving Commitment.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section not later than 12:00 noon, Local Time, on the effective date of such termination or reduction, specifying the effective date thereof; provided that, at any time when there are Eurocurrency Revolving Borrowings outstanding, in the case of any reduction of the Revolving Commitments to be made within the last two Business Days of any Interest Period, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of such reduction; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such reduction shall not become effective until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Revolving Commitments or Delayed Draw Term Commitments under paragraph (b) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

SECTION 2.08. Repayment of Loans; Evidence of Debt. (a) Each Borrower (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign Borrower Obligations) hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender to such Borrower on the Revolving Maturity Date and (ii) the Company hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.09.



(b) The records maintained by the Administrative Agent and the Lenders shall be prima facie evidence of the existence and amounts of the obligations of the Borrowers in respect of the Loans, LC Disbursements, interest and fees due or accrued hereunder; provided that the failure of the Administrative Agent or any Lender to maintain such records or any error therein shall not in any manner affect the obligation of the Borrowers to pay any amounts due hereunder in accordance with the terms of this Agreement.

(c) Any Lender may request that Loans of any Class made by it be evidenced by a promissory note. In such event, each applicable Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns) unless such Lender or assignee notifies the applicable Borrower that it does not require a promissory note, in which case such Lender or assignee, as applicable, shall promptly return such promissory note to the Borrower for cancellation.

**SECTION 2.09. Amortization and Repayment of Term Loans.** (a) The Company shall repay Term Borrowings on the last day of each March, June, September and December, beginning with December 31, 2019 and ending with the last such day to occur prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the sum of (x) the aggregate principal amount of the Initial Term Loans funded on the Effective Date and (y) the aggregate principal amount of the Delayed Draw Term Loans outstanding on the Delayed Draw Funding Date (as such amount may be adjusted pursuant to paragraph (c) of this Section). The Company shall repay Incremental Term Loans of any Series in such amounts and on such date or dates as shall be specified therefor in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series (as such amounts may be adjusted pursuant to paragraph (c) of this Section or pursuant to such Incremental Facility Agreement).

(b) To the extent not previously paid, (i) all Term Loans shall be due and payable on the Term Maturity Date and (ii) all Incremental Term Loans of any Series shall be due and payable on the Incremental Term Maturity Date applicable thereto.

(c) Any prepayment of a Term Borrowing of any Class shall be applied in direct order to reduce the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section; provided that any prepayment of a Term Borrowing of any Class made pursuant to Section 2.10(a) shall be applied to reduce the subsequent scheduled repayments of Term Borrowings of such Class to be made pursuant to this Section as directed by the Company. In the event that Term Loans of any Class are converted into a new Class of Term Loans pursuant to a Permitted Amendment effected pursuant to Section 2.21, then the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section will not be reduced or otherwise affected by such transaction (except to the extent that the final scheduled payment shall be reduced thereby).

(d) Prior to any repayment of any Term Borrowings of any Class under this Section, the Company shall select the Borrowing or Borrowings of the applicable Class to be repaid and shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of such selection not later than 11:00 a.m., New York City time, three Business Days before the scheduled date of such repayment. Each repayment of a Term Borrowing shall be applied ratably to the Loans included in the repaid Term Borrowing. Repayments of Term Borrowings shall be accompanied by accrued interest on the amounts repaid.

SECTION 2.10. Prepayment of Loans. (a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on each occasion that (i) other than as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit in accordance with Section 1.06, (A) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (B) the Foreign Borrower Exposure exceeds \$400,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$400,000,000 or (ii) as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit pursuant to Section 1.06, (x) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (y) the Foreign Borrower Exposure exceeds \$420,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$420,000,000.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of the Company or any Subsidiary in respect of any Prepayment Event, the Company shall, on the day such Net Proceeds are received (or, in the case of a Prepayment Event described in clause (a) or (b) of the definition of the term "Prepayment Event", within five Business Days after such Net Proceeds are received), prepay Term Borrowings in an amount equal to such Net Proceeds; provided that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event", if the Company shall, prior to the date of the required prepayment, deliver to the Administrative Agent a certificate of a Financial Officer of the Company to the effect that the Company intends to cause the Net Proceeds from such event (or a portion thereof specified in such certificate) to be applied within one year after receipt of such Net Proceeds to acquire, repair or restore assets to be used or useful in the business of the Company or the Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, of any Subsidiaries), or to consummate any Permitted Acquisition of Persons that will become, or assets that will be held by, Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, that will become Subsidiaries or be held by any Subsidiaries) permitted hereunder (but not of other Persons), and certifying that no Default has occurred and is continuing, then no

prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds from such event (or the portion of such Net Proceeds specified in such certificate, if applicable) except to the extent of any such Net Proceeds that have not been so applied by the end of such one-year period (or within a period of 180 days thereafter if by the end of such initial one-year period the Company or one or more Domestic Subsidiaries (or, to the extent permitted above, Foreign Subsidiaries) shall have entered into an agreement with a third party to acquire, repair or restore such assets, or to consummate such Permitted Acquisition, with such Net Proceeds), at which time a prepayment shall be required in an amount equal to the Net Proceeds that have not been so applied.

(d) In the event and on each occasion that, as a result of the receipt of any cash proceeds by the Company or any Subsidiary in connection with any Disposition of any asset or any other event, the Company or any other Loan Party would be required by the terms of any Indebtedness that is Subordinated Indebtedness with respect to the Loan Document Obligations (or any Refinancing Indebtedness in respect thereof) to repay, prepay, redeem, repurchase or defease, or make an offer to repay, prepay, redeem, repurchase or defease, any such Subordinated Indebtedness (or such Refinancing Indebtedness) or any other Subordinated Indebtedness, then, prior to the time at which it would be required to make such repayment, prepayment, redemption, repurchase or defeasance or to make such offer, the Company shall, if and to the extent it would reduce, eliminate or satisfy any such requirement, (i) prepay Term Borrowings or (ii) use such cash proceeds to acquire assets in one or more transactions permitted hereby.

(e) Following the end of each fiscal year of the Company, commencing with the fiscal year ending December 31, 2020, the Company shall prepay Term Borrowings in an aggregate amount equal to the Specified ECF Percentage of Excess Cash Flow for such fiscal year; provided that such amount shall be reduced by the aggregate amount of voluntary prepayments of Term Borrowings and Revolving Borrowings (but only to the extent accompanied by a permanent reductions of the corresponding Commitment) made pursuant to this Section 2.10 during such fiscal year and after the end of such fiscal year but prior to the date on which the prepayment pursuant to this paragraph (e) for such fiscal year is required to have been made, excluding any such prepayments to the extent financed from Excluded Sources. Each prepayment pursuant to this paragraph shall be made no later than the date that is five Business Days following the date on which financial statements are required to be delivered pursuant to Section 5.01(a) with respect to the fiscal year for which Excess Cash Flow is being.

(f) Prior to any optional or mandatory prepayment of Borrowings under this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (g) of this Section. In the event of any mandatory prepayment of Term Borrowings made at a time when Term Borrowings of more than one Class are outstanding, the Company shall select Term Borrowings to be prepaid so that the aggregate amount of such prepayment is allocated among the Term Borrowings pro rata based on the aggregate principal amounts of outstanding Borrowings of each such Class.

(g) The applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of any optional prepayment and, to the extent practicable, any mandatory prepayment hereunder not later than 12:00 noon, Local Time, on the date of such prepayment; provided that, in the case of any prepayment of Eurocurrency Loans to be made within the last two Business Days of the Interest Period relating to such Eurocurrency Loan, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of prepayment; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such Borrowing shall not be prepaid until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that (A) if a notice of optional prepayment is given in connection with a conditional notice of termination of the Revolving Commitments or the Delayed Draw Term Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07 and (B) a notice of prepayment of Term Borrowings pursuant to paragraph (a) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type and currency as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12 together with any additional amounts required pursuant to Section 2.15.

(h) Notwithstanding the foregoing, the Company shall not be required to prepay any Term Borrowings with any Foreign Source Prepayment to the extent the repatriation to the Company of such Foreign Source Prepayment (i) would result in a material tax liability to the Company or any of its Subsidiaries, (ii) is prohibited or restricted by any applicable Requirement of Law or (iii) would conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such Foreign Source Prepayment shall not be required to prepay any Term Borrowings pursuant to Section 2.10(c); provided that, if such repatriation would no longer result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any applicable Requirement of Law or conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such an amount equal to such Foreign Source Prepayment shall be promptly repatriated to the Company and such proceeds shall thereafter be applied to the repayment of Term Borrowings pursuant to Section 2.10(c); and provided, further, that in the case of any Prepayment Event in respect of which the Net Proceeds are less than \$20,000,000, no prepayment shall be required to be made in respect of any Net Proceeds as to which such repatriation would continue to result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any

applicable Requirement of Law or conflict with the fiduciary duties on the date 365 days following such Prepayment Event.

(i) In the event that, on or prior to the date that is six months after the Effective Date, the Company (x) prepays, repays, refinances, substitutes or replaces any Term Loans in connection with a Repricing Transaction (including any prepayment made as a result of clause (c) of the definition of Prepayment Event that constitutes a Repricing Transaction), or (y) effects any amendment, waiver or other modification of, or consent under, this Agreement resulting in a Repricing Transaction, the Company shall pay to the Administrative Agent, for the ratable account of each of the applicable Term Lenders, (A) in the case of clause (x), a premium of 1.00% of the aggregate principal amount of the Term Loans so prepaid, repaid, refinanced, substituted or replaced and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the Term Loans outstanding immediately prior to such amendment, waiver, modification or consent that are the subject of such Repricing Transaction. If, on or prior to the date that is six months after the Effective Date, all or any portion of the Term Loans held by any Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 2.18 as a result of, or in connection with, such Lender not consenting with respect to any amendment, waiver, modification or consent referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

SECTION 2.11. Fees. (a) The Company agrees to pay to the Administrative Agent (i) for the account of each Revolving Lender a commitment fee which shall accrue at the Applicable Rate on the daily unused amount of the Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Revolving Commitment terminates and (ii) for the account of each Delayed Draw Term Lender, a ticking fee which shall accrue at the Applicable Ticking Fee Rate on the daily unused amount of the Delayed Draw Term Commitment of such Lender during the period from and including the Effective Date to but excluding the earlier of (x) the date on which such Delayed Draw Term Commitment terminates and (y) the Delayed Draw Funding Date. Accrued commitment and ticking fees in respect of the Revolving Commitments or the Delayed Draw Term Commitments shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitments and Delayed Draw Term Commitments terminate, as applicable, commencing on the first such date to occur after the date hereof. All commitment and ticking fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Revolving Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Lender.

(b) Each Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit issued for the account of such Borrower, which shall accrue at the Applicable Rate used to

determine the interest rate applicable to Eurocurrency Revolving Loans on the daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to each Issuing Bank a fronting fee (payable in Dollars), which shall accrue at the rate or rates per annum separately agreed upon between the Company and such Issuing Bank on the average daily amount of the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any such LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. In addition, if, as contemplated by Section 2.04(c), any Letter of Credit is cash collateralized and remains outstanding after the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be), the applicable Borrower will pay a fee (an "LC Fee") to the Issuing Bank in respect of such Letter of Credit which shall accrue at the Applicable Rate that would be used to determine the interest rate applicable to Eurocurrency Revolving Loans (assuming such Loans were outstanding during such period) on the daily amount of the LC Exposure attributable to such Letter of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be) but excluding the date on which such Issuing Bank ceases to have any LC Exposure in respect of such Letter of Credit. Participation fees, fronting fees and other fees payable to an Issuing Bank in respect of its Letters of Credit accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees (other than LC Fees) shall be payable on the date on which the Revolving Commitments terminate and any such fees, including LC Fees, accruing after the date on which the Revolving Commitments terminate shall be payable on demand and, in the case of LC Fees and fronting fees accruing after the Revolving Maturity Date (or Subsequent Maturity Date, as applicable), on the date on which the relevant Issuing Bank ceases to have LC Exposure in respect of the Letter of Credit in respect of which such fees are payable. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees, LC Fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All LC Fees shall be payable in the currency in which the applicable Letter of Credit was denominated.

(c) The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d) All fees payable hereunder shall be paid in Dollars on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of

fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Revolving Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.12. Interest. (a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted Eurocurrency Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section 2.12 or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Revolving Loans as provided in paragraph (a) of this Section 2.12.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of a Revolving Loan, upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of a Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion. All interest shall be payable in the currency in which the applicable Loan is denominated.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest on Borrowings denominated in Sterling shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Eurocurrency Rate or Adjusted Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) If as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason (excluding any restatement of or other adjustment to the financial statements of the Company with respect to the initial adoption by the Company of Mark-to-Market Pension Accounting as described in Annex A), the Company or the Administrative Agent determines that (i) the Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Leverage Ratio would

have resulted in a higher Applicable Rate for any period, the Company shall be obligated to pay to the Administrative Agent, for the accounts of the applicable Lenders and Issuing Banks, promptly on demand by the Administrative Agent (or after the occurrence of any Event of Default under Article VII (i) or (j) with respect to any Borrower, automatically and without further action by the Administrative Agent, any Lender or any Issuing Bank) an amount equal to the excess of the interest and fees (including participation fees with respect to Letters of Credit and LC Fees, as applicable) that should have been paid for such period over the amount of interest and fees actually paid for such period. The Company's obligations under this paragraph (f) shall survive the termination of the Commitments and the repayment of the other Obligations hereunder for a period of 90 days.

SECTION 2.13. Alternate Rate of Interest. In the case of (x) Incremental Term A-2021 Loans and (y) Revolving Loans:

(i) Subject to clauses (ii), (iii), (iv), (v), (vi) and (vii) of this Section 2.13(a), if prior to the commencement of any Interest Period for a Eurocurrency Borrowing of the applicable Class:

(A) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the applicable Adjusted Eurocurrency Rate or Eurocurrency Rate (including because the applicable Screen Rate is not available or published on a current basis), for the applicable currency and such Interest Period provided that no Benchmark Transition Event shall have occurred at such time; or

(B) the Administrative Agent is advised by the Required Incremental Term A-2021 Lenders and Revolving Lenders that the applicable Adjusted Eurocurrency Rate or Eurocurrency Rate for the applicable currency and such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower, or the Borrower Agent on its behalf, and the applicable Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies such Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist, (1) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective, (2) if any Borrowing Request requests a Eurocurrency Revolving Borrowing in Dollars, such Borrowing shall be made as an ABR Borrowing and (3) if any Borrowing Request requests a Eurocurrency Borrowing in Euros or Sterling, then such request shall be ineffective, in each case with respect to the applicable Class; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted. Furthermore, if any applicable Eurocurrency Loan in any currency is outstanding



on the date of receipt by the applicable Borrower, or the Borrower Agent on its behalf, of the notice from the Administrative Agent referred to in this Section 2.13(a)(i) with respect to a Eurocurrency Rate applicable to such Eurocurrency Loan, then (x) if such Eurocurrency Loan is denominated in Dollars, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, an ABR Loan denominated in Dollars on such day or (y) if such Eurocurrency Loan is denominated in Euros or Sterling, then such Loan shall, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), at the election of the applicable Borrower, or the Borrower Agent on its behalf, prior to such day: (a) be prepaid by the applicable Borrower on such day or (b) be converted by the Administrative Agent to, and (subject to the remainder of this subclause (b)) shall constitute, an ABR Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of such currency) on such day (it being understood and agreed that if the applicable Borrower does not so prepay such Loan on such day by 12:00 p.m. (New York City time), the Administrative Agent is authorized to effect such conversion of such Eurocurrency Loan into an ABR Loan denominated in Dollars), and, in the case of such subclause (b), upon the receipt by the such Borrower, or the Borrower Agent on its behalf, of notice from the Administrative Agent that the circumstances giving rise to the aforementioned notice no longer exist, such ABR Loan denominated in Dollars shall then be converted by the Administrative Agent to, and shall constitute, a Eurocurrency Loan denominated in such original currency (in an amount equal to the Alternative Currency Equivalent of such currency) on the day of such notice being given to such Borrower, or the Borrower Agent on its behalf, by the Administrative Agent.

(ii) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (A) if a Benchmark Replacement is determined in accordance with clause (a) or (b) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (B) if a Benchmark Replacement is determined in accordance with clause (c) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth Business Day after the date notice of such Benchmark Replacement is provided to the applicable Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from

Lenders comprising the Majority in Interest of the Incremental Term A-2021 Lenders and/or Revolving Lenders, as applicable.

(iii) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, solely with respect to an applicable Dollar-denominated Loan, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that this clause (iii) shall not be effective unless the Administrative Agent has delivered to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.

(iv) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(v) The Administrative Agent will promptly notify the Borrowers, or the Borrower Agent on their behalf, and the applicable Lenders of (A) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (vi) below and (E) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any applicable Lender (or group of Lenders) pursuant to this Section 2.13(a), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.13(a).

(vi) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or the LIBO 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 or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" 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 or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(vii) Upon the receipt by a Borrower, or the Borrower Agent on its behalf, of notice of the commencement of a Benchmark Unavailability Period, any Borrower may revoke any request for an applicable Eurocurrency Borrowing of, conversion to or continuation of Eurocurrency Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, either (A) such Borrower will be deemed to have converted any request for an applicable Eurocurrency Borrowing denominated in Dollars into a request for a Borrowing of or conversion to ABR Loans or (B) any applicable Eurocurrency Borrowing denominated in Euros or Sterling shall be ineffective. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any applicable Eurocurrency Loan in any currency is outstanding on the date of the receipt by the applicable Borrower, or the Borrower Agent on its behalf, of notice of the commencement of a Benchmark Unavailability Period with respect to a Eurocurrency Rate applicable to such Eurocurrency Loan, then (1) if such Eurocurrency Loan is denominated in Dollars, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, an ABR Loan denominated in Dollars on such day or (2) if such Eurocurrency Loan is denominated in Euros or Sterling, then such Loan shall, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), at the election of the Borrower, or Borrower Agent on its behalf, prior to such day: (x) be prepaid by such Borrower on such day or (y) be converted by the Administrative Agent to, and (subject to the remainder of this subclause (y)) shall constitute, an ABR Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of such currency) on such day (it being understood and agreed that if the applicable Borrower does not so prepay such Loan on such day by 12:00 p.m. (New York City time), the Administrative Agent is authorized to effect such conversion of such Eurocurrency Loan into an ABR Loan denominated in Dollars), and, in the case of such subclause (y), upon any subsequent implementation of a Benchmark Replacement in respect of such currency pursuant to this Section 2.13(a), such ABR Loan denominated in Dollars shall then be converted by the Administrative Agent to, and shall constitute, a

Eurocurrency Loan denominated in such original currency (in an amount equal to the Alternative Currency Equivalent of such currency) on the day of such implementation, giving effect to such Benchmark Replacement in respect of such currency.

**(b) In the case of any Loan other than Incremental Term A-2021 Loans and Revolving Loans:**

**(i)** If prior to the commencement of any Interest Period for a Eurocurrency Borrowing of any Class:

~~(A)(i)~~ the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted Eurocurrency Rate for such Interest Period (including because the applicable Screen Rate is not available or published on a current basis), for the applicable currency; or

~~(B)(ii)~~ the Administrative Agent is advised by a Majority in Interest of the Lenders of such Class that the Adjusted Eurocurrency Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Eurocurrency Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower, or the Borrower Agent on its behalf, and the Lenders of such Class by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies such Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist (the Administrative Agent having determined that such circumstances affecting the relevant market no longer exist and adequate and reasonable means do exist for determining the Adjusted Eurocurrency Rate or the Administrative Agent having been notified by a Majority in Interest of the Lenders of such Class that such circumstances described in clause ~~(ii)(B)~~ above no longer exist), ~~(i)~~ in the case of Borrowings denominated in Dollars, ~~(A)(x)~~ any Interest Election Request that requests the conversion of any Borrowing of such Class to, or continuation of any Borrowing of such Class as, a Eurocurrency Borrowing shall be ineffective, and such Borrowing shall be continued as an ABR Borrowing, ~~(ii)(y)~~ any Borrowing Request for a Eurocurrency Borrowing of such Class shall be made as a request for an ABR Borrowing, and ~~(ii)(2)~~ in the case of Borrowings denominated in Euros or Sterling, until the Administrative Agent notifies such Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, the rate of interest that shall apply to such Borrowing shall be such rate as the Administrative Agent shall determine adequately and fairly reflects the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period plus the Applicable Rate then in effect for Eurocurrency Loans. If an unavailability notice is delivered in respect of any Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, may elect by notice to the Administrative Agent to revoke its request that such Borrowing be made or continued, in which event Section 2.15 shall not apply (except that Lenders shall be entitled to receive

their actual out-of-pocket losses, costs and expenses, if any, in connection with such Borrowing not being made or continued).

~~(ii)(b)~~ If, at any time, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that ~~(iA)~~ the circumstances set forth in paragraph ~~(ai)~~~~(iA)~~ of this Section 2.13**(b)** have arisen and such circumstances are unlikely to be temporary or ~~(iiB)~~ the circumstances set forth in paragraph ~~(ai)~~~~(iA)~~ of this Section 2.13**(b)** have not arisen but either (w) the supervisor for the administrator of the applicable Screen Rate has made a public statement that the administrator of such Screen Rate is insolvent (and there is no successor administrator that will continue publication of such Screen Rate), (x) the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of such Screen Rate), (y) the supervisor for the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the applicable Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which such Screen Rate may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the applicable Screen Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but such related changes shall not include a reduction of the Applicable Rate); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders of each Class stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause ~~(b)~~~~(bii)~~ (but, in the case of the circumstances described in clause ~~(iiB)~~(w), clause ~~(iiB)~~(x) or clause ~~(iiB)~~(y) of the first sentence of this Section 2.13**(b)**~~(ii)~~, only to the extent the applicable Screen Rate for the applicable currency and such Interest Period is not available or published at such time on a current basis), ~~(x1)~~ any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective and ~~(y2)~~ if any Borrowing Request requests a Eurocurrency Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.14. Increased Costs. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Bank (except any such reserve requirement reflected in the Adjusted Eurocurrency Rate);

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

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), to increase the cost to such Lender, Issuing Bank or other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or any other amount but excluding lost profits), then, from time to time upon request of such Lender, Issuing Bank or other Recipient, the applicable Borrower will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs or expenses incurred or reduction suffered; provided that the Company shall not be liable for such compensation (A) unless such Lender or Issuing Bank is generally charging such amounts to similarly situated borrowers under comparable syndicated credit facilities or (B) if the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital requirements or liquidity has had or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then, from time to time upon request of such Lender or Issuing Bank, the applicable Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, or such other Recipient, as the case may be, as specified in paragraph (a) or (b) of this Section delivered to the Company shall be conclusive absent manifest error. The applicable

Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.15 Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert or continue any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto other than as a result of a failure to fund when the conditions precedent are met, (d) the failure to prepay any Eurocurrency Loan on a date specified therefor in any notice of prepayment given by any Borrower (whether or not such notice may be revoked in accordance with the terms hereof) or (e) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the applicable Borrower, or the Borrower Agent on its behalf, pursuant to Section 2.18 or pursuant to Section 2.20(e), then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted Eurocurrency Rate that would have been applicable to such Loan (but not including the Applicable Rate applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender delivered to the applicable Borrower, or the Borrower Agent on its behalf, and setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.16. Taxes. (a) Withholding of Taxes; Gross-Up. Each payment by a Loan Party under this Agreement or any other Loan Document, whether to the Administrative Agent, any Lender or Issuing Bank or any other Person to which any such payment is owed

(each of the foregoing being referred to as a “Recipient”), shall be made without deduction or withholding for any Taxes, unless such withholding is required by any applicable law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of deducted or withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority pursuant to this Agreement, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign Borrower Obligations) indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with this Agreement (including amounts paid or payable under this paragraph) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 20 days after the Recipient delivers to any Loan Party a certificate stating the amount of any Indemnified Taxes so paid or payable by such Recipient and describing in reasonable detail the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, the Administrative Agent shall be indemnified only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with this Agreement and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 10 days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to



such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under this Agreement shall deliver to each Borrower and the Administrative Agent, at the time or times reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by such Borrower or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by a Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by a Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A) through (E) of paragraph (f)(ii) below) shall not be required if in the Lender's judgment such completion, execution or submission would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of a Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 2.16(f). If any form or certification previously delivered pursuant to this Section 2.16(f) expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly notify the applicable Borrower, or the Borrower Agent on its behalf, and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so. Notwithstanding any other provision of this paragraph, a Lender shall not be required to deliver any form pursuant to this paragraph that it is not legally able to deliver.

(ii) Without limiting the generality of the foregoing, each Lender shall, if it is legally eligible to do so, deliver to each Borrower and the Administrative Agent (in such number of copies as is reasonably requested by such Borrower and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) in the case of a Lender that is a U.S. Person, IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding Tax;

(B) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (1) with respect to payments of interest under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an

exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(C) in the case of a Foreign Lender for whom payments under this Agreement constitute income that is effectively connected with such Lender’s conduct of a trade or business in the United States of America, IRS Form W-8ECI;

(D) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, both (1) IRS Form W8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate substantially in the form of Exhibit I-1, Exhibit I-2, Exhibit I-3 or Exhibit I-4 (each, a “U.S. Tax Certificate”), as applicable, to the effect that such Lender is not (x) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (y) a “10 percent shareholder” of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code or (z) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code;

(E) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender), (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided that if such Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax, together with such supplementary documentation as shall be necessary to enable the applicable Borrower or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld.

(iii) If a payment made to a Lender under this Agreement would be subject to U.S. Federal withholding Tax or reporting requirements imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender’s obligations under FATCA and, as necessary, to determine the amount to deduct and withhold or to report from such payment. Solely for purposes of this Section 2.16(f)(iii),

the term “FATCA” shall include any amendments made to FATCA after the Effective Date.

(g) Additional United Kingdom Tax Matters. (i) Subject to (ii) below, each Lender and each Loan Party which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Loan Party to obtain authorization to make such payment without a UK Tax Deduction, including making and filing an appropriate application for relief under an applicable UK Treaty.

(ii) A UK Treaty Lender that (x) holds a passport under the HMRC DT Treaty Passport scheme and (y) wishes such scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence: (A) where the UK Treaty Lender is a Lender on the date of this Agreement, in such Lender’s Tax Administrative Questionnaire; or (B) where the UK Treaty Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption, and upon satisfying either clause (A) or (B) above, such Lender shall have satisfied its obligation under paragraph (g)(i) above but that UK Treaty Lender shall have an obligation to cooperate further with the relevant Credit Party in accordance with Section 2.16(g)(iii).

(iii) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:

(A) a Loan Party making a payment to such Lender has not made a UK Borrower DTTP Filing in respect of such Lender; or

(B) a Loan Party making a payment to such Lender has made a UK Borrower DTTP Filing in respect of such Lender but:

(1) such UK Borrower DTTP Filing has been rejected by HMRC; or

(2) HMRC has not given such Loan Party authority to make payments to such Lender without a UK Tax Deduction within 30 Business Days of the date of such UK Borrower DTTP Filing;

and in each case, the relevant Loan Party has notified that Lender in writing of either (1) or (2) above, then such Lender and such Loan Party shall co-operate in completing any additional procedural formalities necessary for such Loan Party to obtain authorization to make that payment without a UK Tax Deduction.

(iv) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Loan Party shall make a UK Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender’s Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.

(v) Each Loan Party shall, promptly on making a UK Borrower DTTP Filing, deliver a copy of such UK Borrower DTTP Filing to the Administrative Agent for delivery to the relevant Lender.

(vi) A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender (A) in the case of a Lender that is a Lender on the date of this Agreement, gives a UK Tax Confirmation to the Company by entering into the Agreement; and (B) in the case of a Lender that becomes a Lender after the date of this Agreement, shall give a Tax Confirmation to the Company in the Assignment and Assumption that it executes. A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender shall promptly notify the Company and the Administrative Agent if there is any change in the position from that set out in the UK Tax Confirmation; provided that the Lender shall, where such change occurs as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of that change.

(vii) Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

- (A) not a UK Qualifying Lender;
- (B) a UK Qualifying Lender (that is not a UK Treaty Lender); or
- (C) a UK Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire; or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(g)(vii), then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not a UK Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement shall not be invalidated by any failure of a Lender to comply with this Section 2.16(g)(vii). Each Lender shall promptly notify the Company and the Administrative Agent if it has ceased to be a UK Qualifying Lender; provided that the Lender shall, where that Lender ceases to be a UK Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be a UK Qualifying Lender.

(viii) Each UK Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of a UK Treaty with respect to payments made by any UK Borrower hereunder.

(h) Additional Irish Withholding Tax Matters.

(i) Each Lender and each Irish Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Irish

Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of Ireland, including making and filing an appropriate application for relief under an applicable Irish Treaty and the provision by the Lender to each Irish Borrower of such authorization granted by the Revenue Commissioners of Ireland entitling the Irish Borrower to pay such Lender without withholding or deduction for Taxes imposed under the laws of Ireland.

(ii) Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

- (A) not an Irish Qualifying Lender;
- (B) an Irish Qualifying Lender (that is not an Irish Treaty Lender); or
- (C) an Irish Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(h)(ii), then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not an Irish Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement and shall not be invalidated by any failure of a Lender to comply with this Section 2.16(h)(ii). Any Lender that ceases to be an Irish Qualifying Lender shall promptly notify the Administrative Agent and the Borrowers; provided that the Lender shall, where that Lender ceases to be an Irish Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be an Irish Qualifying Lender.

(iii) Each Irish Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of an Irish Treaty with respect to payments made by any Irish Borrower hereunder.

(i) Additional Dutch Withholding Tax Matters. Each Lender and each Dutch Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Dutch Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of the Netherlands.

(ii) Each Lender shall notify the Dutch Borrower and Administrative Agent if such Lender determines in its sole discretion that it ceases to be entitled to claim the benefits of an income tax treaty to which the Netherlands is a party with respect to payments made by any Dutch Borrower hereunder.

(j) Treatment of Certain Refunds. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such Recipient, shall repay to such Recipient the amount paid to such Recipient pursuant to the prior sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will any Recipient be required to pay any amount to any indemnifying party pursuant to this paragraph if such payment would place such Recipient in a less favorable position (on a net after-Tax basis) than such Recipient would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Recipient to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(k) (i) All amounts expressed to be payable under a Loan Document by any party to a Loan Document (a “Party”) to a Lender or Administrative Agent which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (ii) below, if VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent to any Party under a Loan Document and such Lender or Administrative Agent is required to account to the relevant tax authority for the VAT, that Party must pay to such Lender or Administrative Agent (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Lender or Administrative Agent must promptly provide an appropriate VAT invoice to that Party).

(ii) If VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent (the “Supplier”) to any Recipient under a Loan Document, and any Party other than the Recipient (the “Relevant Party”) is required by the terms of any Loan Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(A) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (A) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

(B) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(iii) Where a Loan Document requires any Party to reimburse or indemnify a Lender or Administrative Agent for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Lender or Administrative Agent for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender or Administrative Agent reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 2.16(k) to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member of the European Union).

(v) In relation to any supply made by a Lender or Administrative Agent to any Party under a Loan Document, if reasonably requested by such Lender or Administrative Agent, that Party must promptly provide such Lender or Administrative Agent with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Lender or Administrative Agent's VAT reporting requirements in relation to such supply.

(l) Issuing Bank. For purposes of this Section 2.16, the term "Lender" shall include each Issuing Bank.

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

SECTION 2.17. Payments Generally; Pro Rata Treatment; Sharing of Setoffs. (a) Each Borrower shall make each payment required to be made by it hereunder or under any other Loan Document prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 12:00 noon, Local Time, in the case of any payment in respect of a Loan or an LC Disbursement, and prior to 12:00 noon, New York City time, in the case of any other payment), on the date when due, in immediately available funds, without any defense, setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of

calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent, except that payments required to be made directly to any Issuing Bank shall be so made, payments pursuant to Sections 2.14, 2.15, 2.16, 2.22 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payment received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under any Loan Document of principal or interest in respect of any Loan denominated in Euros or Sterling or of any breakage indemnity under Section 2.15 in respect of any such Loan shall be made in the currency in which such Loan is denominated. All other payments required to be made by any Loan Party under any Loan Document shall be made in Dollars except that any amounts payable under Section 2.14, 2.15, 2.16, 2.22 or 9.03 (or any indemnification or expense reimbursement provision of any other Loan Document) that are invoiced in a currency other than Dollars shall be payable in the currency so invoiced.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied towards payment of the amounts then due hereunder ratably among the parties entitled thereto, in accordance with the amounts then due to such parties.

(c) Except to the extent that this Agreement provides for payments to be disproportionately allocated to or retained by a particular Lender or group of Lenders (including in connection with the payment of interest or fees at different rates and the repayment of principal amounts of Term Loans at different times as a result of Permitted Amendments effected under Section 2.21), each Lender agrees that if it shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the amount of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amounts of principal and accrued interest on their Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by a Borrower pursuant to and in accordance with the express terms of this Agreement (as in effect from time to time) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any Person that is an Eligible Assignee (as such term is defined from time to time), including the application of funds



arising from the existence of a Defaulting Lender. Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the applicable Borrower, or the Borrower Agent on its behalf, prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or Issuing Banks hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or Issuing Banks, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it hereunder to or for the account of the Administrative Agent or any Issuing Bank, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations in respect of such payment until all such unsatisfied obligations have been discharged or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender pursuant to Sections 2.04(d), 2.04(f), 2.05(b), 2.17(c), 2.17(d) and 9.03(c), in each case in such order as shall be determined by the Administrative Agent in its discretion.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.14 or 2.22, or if a Loan Party is required to pay any additional amount to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall (at the request of such Borrower or the Borrower Agent) use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14, 2.16 or 2.22, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Each Borrower hereby agrees to pay all reasonable out of pocket costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

(b) If (i) any Lender requests compensation under Section 2.14 or 2.22, (ii) any Loan Party is required to pay any additional amount to any Lender or any Governmental

Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender has become a Defaulting Lender or (iv) any Lender has failed to consent to a proposed amendment, waiver, discharge or termination that under Section 9.02 requires the consent of all the Lenders (or all the affected Lenders or all the Lenders of the affected Class) and with respect to which the Required Lenders (or, in circumstances where Section 9.02 does not require the consent of the Required Lenders, a Majority in Interest of the Lenders of the affected Class) shall have granted their consent, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement and the other Loan Documents (or, in the case of any such assignment and delegation resulting from a failure to provide a consent, all its interests, rights and obligations under this Agreement and the other Loan Documents as a Lender of a particular Class) to an Eligible Assignee that shall assume such obligations (which may be another Lender, if a Lender accepts such assignment and delegation); provided that (A) the Company shall have received the prior written consent of the Administrative Agent (and, if a Revolving Commitment is being assigned, each Issuing Bank), which consent shall not unreasonably be withheld (if such consent would be required under Section 9.04 in connection with an assignment to such Person), (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and, if applicable, participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, (if applicable, in each case only to the extent such amounts relate to its interest as a Lender of a particular Class) from the assignee (in the case of such principal and accrued interest and fees) or the Company (in the case of all other amounts), (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 2.14 or 2.22 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments and (D) in the case of any such assignment and delegation resulting from the failure to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver, discharge or termination can be effected. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation have ceased to apply. Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto.

SECTION 2.19. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Revolving Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Revolving Lender is a Defaulting Lender:

(a) commitment fees shall cease to accrue on the unused amount of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.11(a);

(b) the Revolving Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or any other requisite

Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 9.02), in each case, except to the extent expressly provided in the second to last sentence of Section 9.02(b);

(c) if any LC Exposure exists at the time such Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (with the term "Applicable Percentage" meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph (c), the percentage of the Aggregate Revolving Commitment represented by such Lender's Revolving Commitment at the time of such reallocation calculated disregarding the Revolving Commitments of the Defaulting Lenders at such time) but only to the extent that the sum of all Non-Defaulting Lenders' Revolving Exposures plus such Defaulting Lender's LC Exposure does not exceed the sum of all Non-Defaulting Lenders' Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Banks the portion of such Defaulting Lender's LC Exposure that has not been reallocated in accordance with the procedures set forth in Section 2.04(i) for so long as such LC Exposure is outstanding;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay participation fees to such Defaulting Lender pursuant to Section 2.11(b) with respect to such portion of such Defaulting Lender's LC Exposure for so long as such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if any portion of the LC Exposure of such Defaulting Lender is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.11(a) and 2.11(b) shall be adjusted to give effect to such reallocation; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all participation fees payable under Section 2.11(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks (and allocated among them ratably based on the amount of such Defaulting Lender's LC Exposure attributable to Letters of Credit issued by each Issuing Bank) until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless in each case it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be fully covered by the Revolving Commitments of the Non-Defaulting Lenders and/or cash collateral provided by the Borrowers in accordance with Section 2.19(c), and participating interests in any such issued, amended, reviewed or extended Letter of Credit will be allocated among the Non-Defaulting Lenders in a manner consistent with Section 2.19(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that (x) a Bankruptcy Event with respect to a Revolving Lender Parent shall have occurred following the date hereof and for so long as such Bankruptcy Event shall continue or (y) any Issuing Bank has a good faith belief that any Revolving Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless such Issuing Bank shall have entered into arrangements with the applicable Borrower, or the Borrower Agent on its behalf, or such Revolving Lender satisfactory to such Issuing Bank to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Company and each Issuing Bank each agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender (a "Restored Lender"), then the LC Exposure of the Revolving Lenders shall be reallocated in accordance with their Applicable Percentages and on such date such Restored Lender shall purchase at par such of the Revolving Loans of the other Revolving Lenders as the Administrative Agent shall determine may be necessary in order for such Restored Lender to hold such Loans in accordance with its Applicable Percentage (with the term "Applicable Percentage" meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph, the percentage of the Aggregate Revolving Commitment represented by such Lender's Revolving Commitment at the time of such reallocation calculated including the Revolving Commitment of such Restored Lender but disregarding the Revolving Commitments of the Defaulting Lenders at such time).

Subject to Section 9.20 no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

SECTION 2.20. Incremental Facilities. (a) The Company may on one or more occasions, by written notice to the Administrative Agent, request (i) during the Revolving Availability Period, the establishment of Incremental Revolving Commitments and/or (ii) the establishment of Incremental Term Commitments, in an aggregate amount for all such Incremental Commitments not to exceed the sum of (A) \$150,000,000 plus (B) such amount as would not cause the Secured Leverage Ratio, computed on a Pro Forma Basis as of the last day of the fiscal quarter most recently ended prior to the effective date of the relevant Incremental Facility Agreement in respect of which financial statements have been delivered pursuant to Section 5.01(a) or (b), to exceed, 3.00 to 1.00; provided that for purposes of the pro forma calculations required by clauses (A) and (B) above, (x) the Incremental Revolving Commitments that would become effective in connection with the requested Incremental Facility shall be

assumed to be fully drawn and (y) the calculation of clause (B) above shall be determined without giving effect to any incurrence under clause (A) above that is incurred substantially simultaneously with amounts under clause (B) above; provided, further, that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (B) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof. Each such notice shall specify (A) the date on which the Company proposes that the Incremental Revolving Commitments or the Incremental Term Commitments, as applicable, shall be effective, which shall be a date not less than 10 Business Days (or such shorter period as may be agreed to by the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (B) the amount of the Incremental Revolving Commitments or Incremental Term Commitments, as applicable, being requested (it being agreed that (x) any Lender approached to provide any Incremental Revolving Commitment or Incremental Term Commitment may elect or decline, in its sole discretion, to provide such Incremental Revolving Commitment or Incremental Term Commitment and (y) any Person that the Company proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible Assignee and must be reasonably acceptable to the Administrative Agent and, in the case of any proposed Incremental Revolving Lender, each Issuing Bank.

(b) The terms and conditions of any Incremental Revolving Commitment and Loans and other extensions of credit to be made thereunder shall be, except as otherwise set forth herein, identical to those of the Revolving Commitments and Loans and other extensions of credit made thereunder, and shall be treated as a single Class with such Revolving Commitments and Loans; provided that (i) the maturity date of any Incremental Revolving Commitments shall be no sooner than, but may be later than, the Revolving Maturity Date, (ii) there shall be no mandatory reduction of any Incremental Revolving Commitments prior to the Revolving Maturity Date and (iii) the up-front fees applicable to any Incremental Revolving Facility shall be as determined by the Company and the Incremental Revolving Lenders providing such Incremental Facility. The terms and conditions of any Incremental Term Facility and the Incremental Term Loans to be made thereunder shall be, except as otherwise set forth herein or in the applicable Incremental Facility Agreement, identical to those of the Term Commitments and the Term Loans; provided that (i) the up-front fees, interest rates and amortization schedule applicable to any Incremental Term Facility and Incremental Term Loans shall be determined by the Company and the Incremental Term Lenders providing the relevant Incremental Term Commitments, (ii) the weighted average life to maturity of any Incremental Term Loans that are not Incremental Term A Loans shall be no shorter than, but may be longer than, the remaining weighted average life to maturity of the then outstanding Term Loans (determined without giving effect to any prepayments that reduce amortization), (iii) no Incremental Term Loan Maturity Date in respect of Incremental Term Loans that are not Incremental Term A Loans shall be earlier than, but may be later than, the Term Maturity Date, (iv) no Incremental Term Loan Maturity Date in respect of Incremental Term A Loans shall be earlier than, but may be later than, the Revolving Maturity Date and (v) if the Weighted Average Yield applicable to any Incremental Term Loans incurred prior to the date that is 18 months after the Effective Date exceeds by more than 0.50% per annum the applicable Weighted Average Yield payable

pursuant to the terms of this Agreement, as amended through the date of such calculation, with respect to the Term Loans, then the Applicable Rate then in effect for the Term Loans shall automatically be increased to eliminate such excess; provided, however, that any interest in the Applicable Rate required pursuant to the foregoing as a result of any interest rate “floor” shall be effected solely through the establishment of or increase to an interest rate “floor”. Notwithstanding the foregoing, the terms and conditions applicable to an Incremental Facility may include additional or different financial or other covenants or other provisions that are agreed between the Company and the Lenders providing such Incremental Facility which are applicable only during periods after the latest Maturity Date that is in effect on the date of effectiveness of such Incremental Facility. Any Incremental Term Facilities established pursuant to an Incremental Facility Agreement (other than any Incremental Term Facilities having terms identical to the Term Loans made on the Effective Date) that have identical terms, and any Incremental Term Loans made thereunder, shall be designated as a separate series (each a “Series”) of Incremental Term Commitments and Incremental Term Loans for all purposes of this Agreement. Notwithstanding anything to the contrary herein, each Incremental Facility and all extensions of credit thereunder shall be secured by the Collateral on a pari passu basis with the other Loan Document Obligations.

(c) The Incremental Commitments and Incremental Facilities relating thereto shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Company, each Incremental Lender providing such Incremental Commitments and Incremental Facilities and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) no Default or Event of Default shall have occurred and be continuing on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Term Commitments and the making of Loans and issuance of Letters of Credit thereunder to be made on such date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, except with respect to the requirement that there not have occurred and be continuing any Default under paragraph (a) or (b) of Article VII or any Default with respect to any Borrower under paragraph (i) or (j) of Article VII (which must be true both immediately prior to and immediately after giving effect to such Incremental Commitments and the making of Loans thereunder to be made on the date of effectiveness thereof), any condition set forth in this clause (i) may, at the Company’s option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be made and shall be true and correct (A) in the case of the representations and warranties qualified as to materiality, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (ii) may, at the Company’s option, be modified in a manner determined by the Company and the Incremental Lenders providing such Incremental Term Loan Commitments, as set forth in the applicable Incremental Facility Agreement, such that the only representations and warranties the accuracy of which is a

condition to the effectiveness of such Incremental Term Commitments are the Specified Representations and the Acquired Company Representations, (iii) after giving effect to such Incremental Commitments and the making of Loans pursuant thereto and the use of proceeds thereof (and based on the assumption that borrowings are effected in the full amount of any Incremental Revolving Commitments), the Company shall be in compliance on a Pro Forma Basis with the covenant contained in Section 6.12 recomputed as of the last day of the most-recently ended fiscal quarter of the Company for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b); provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (iii) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (iv) the Company shall make any payments required to be made pursuant to Section 2.15 in connection with such Incremental Commitments and the related transactions under this Section and (v) the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with any such transaction, including a certificate of a Financial Officer to the effect set forth in clauses (i), (ii) and (iii) above, together with reasonably detailed calculations demonstrating compliance with clause (iii) above. Each Incremental Facility Agreement may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section; provided that to the extent that any term of any such amendment could not be approved as an amendment of this Agreement by the Lenders providing such Incremental Commitments voting a single Class without the approval of any other Lender, such amendment will be subject to the approval of the requisite Lenders required under this Agreement.

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender, (i) such Incremental Lender shall be deemed to be a "Lender" (and a Lender in respect of Commitments and Loans of the applicable Class) hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and under the other Loan Documents and (ii) in the case of any Incremental Revolving Commitment, (A) such Incremental Revolving Commitment shall constitute (or, in the event such Incremental Lender already has a Revolving Commitment, shall increase) the Revolving Commitment of such Incremental Lender and (B) the Aggregate Revolving Commitment shall be increased by the amount of such Incremental Revolving Commitment, in each case, subject to further increase or reduction from time to time as set forth in the definition of the term "Revolving Commitment". Upon the effectiveness of any Incremental Revolving Commitment, the Revolving Exposure of the Incremental Revolving Lender holding such Commitment, and the Applicable Percentage of all the Revolving Lenders, shall automatically be adjusted to give effect thereto.

(e) On the date of effectiveness of any Incremental Revolving Commitments, each Revolving Lender shall assign to each Incremental Revolving Lender holding such Incremental Revolving Commitment, and each such Incremental Revolving Lender shall purchase from each Revolving Lender, at the principal amount thereof (together with accrued interest), such interests in the Revolving Loans and participations in Letters of Credit outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans and participations in Letters of Credit will be held by all the Revolving Lenders (including such Incremental Revolving Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Incremental Revolving Commitment.

(f) Subject to the terms and conditions set forth herein and in the applicable Incremental Facility Agreement, each Lender holding an Incremental Term Commitment of any Series shall make a loan to the Company in an amount equal to such Incremental Term Commitment on the date specified in such Incremental Facility Agreement.

(g) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Company referred to in Section 2.20(a) and of the effectiveness of any Incremental Commitments, in each case advising the Lenders of the details thereof and, in the case of effectiveness of any Incremental Revolving Commitments, of the Applicable Percentages of the Revolving Lenders after giving effect thereto and of the assignments required to be made pursuant to Section 2.20(e).

SECTION 2.21. Loan Modification Offers. (a) The Company may on one or more occasions, by written notice to the Administrative Agent, make one or more offers (each, a "Loan Modification Offer") to all the Lenders of one or more Classes (each Class subject to such a Loan Modification Offer, an "Affected Class") to make one or more Permitted Amendments pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Company. Such notice shall set forth (i) the terms and conditions of the requested Permitted Amendment and (ii) the date on which such Permitted Amendment is requested to become effective (which shall not be less than 10 Business Days nor more than 30 Business Days after the date of such notice, unless otherwise agreed to by the Administrative Agent). Permitted Amendments shall become effective only with respect to the Loans and Commitments of the Lenders of the Affected Class that accept the applicable Loan Modification Offer (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Loans and Commitments of such Affected Class as to which such Lender's acceptance has been made.

(b) A Permitted Amendment shall be effected pursuant to a Loan Modification Agreement executed and delivered by each applicable Borrower, each applicable Accepting Lender and the Administrative Agent; provided that no Permitted Amendment shall become effective unless the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, stockholder resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection therewith. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each Loan Modification Agreement may, without the



consent of any Lender other than the applicable Accepting Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section, including any amendments necessary to treat the applicable Loans and/or Commitments of the Accepting Lenders as a new "Class" of loans and/or commitments hereunder; provided that, in the case of any Loan Modification Offer relating to Revolving Commitments or Revolving Loans, except as otherwise agreed to by each Issuing Bank, (i) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of Credit as between the commitments of such new "Class" and the remaining Revolving Commitments shall be made on a ratable basis as between the commitments of such new "Class" and the remaining Revolving Commitments and (ii) the Revolving Availability Period and the Revolving Maturity Date, as such terms are used in reference to Letters of Credit, may not be extended without the prior written consent of each Issuing Bank.

SECTION 2.22. Additional Reserve Costs. (a) If and for so long as any Lender is required to make special deposits with the Bank of England, to maintain reserve asset ratios or to pay fees, in each case in respect of such Lender's Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on each of such Loans, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(b) If and for so long as any Lender is required to comply with reserve assets, liquidity, cash margin or other requirements of any monetary or other authority (including any such requirement imposed by the European Central Bank or the European System of Central Banks, but excluding requirements addressed by Section 2.22(a) in respect of any of such Lender's Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on each of such Lender's Loans subject to such requirements, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(c) Any additional interest owed pursuant to paragraph (a) or (b) above shall be determined by the relevant Lender, acting in good faith, which determination shall be conclusive absent manifest error, and notified to the applicable Borrower, or the Borrower Agent on its

behalf, (with a copy to the Administrative Agent) at least five Business Days before each date on which interest is payable for the relevant Loans, and such additional interest so notified to the applicable Borrower, or the Borrower Agent on its behalf, by such Lender shall be payable to such Lender on each date on which interest is payable for such Loans.

**SECTION 2.23. Foreign Borrowers.** (a) The Company may, upon not less than ten (10) Business Days' written notice (or such shorter period as may be agreed by the Administrative Agent) to the Administrative Agent and the Revolving Lenders, request that the Revolving Lenders approve the designation of any Subsidiary (an "Applicant Borrower") that is a wholly-owned Foreign Subsidiary of the Company as a Foreign Borrower hereunder by delivery to the Administrative Agent of a Foreign Borrower Joinder Agreement executed by such Subsidiary, the Company and the other Loan Parties under which such Subsidiary agrees to become a Foreign Borrower and each Loan Party reaffirms its guarantees, pledges, grants and other commitments and obligations under the Credit Agreement and the Security Documents to which such Loan Party is party. The approval of the designation of an Applicant Borrower as a Foreign Borrower may be granted or withheld in the sole discretion of any Revolving Lender. An Applicant Borrower shall become a Foreign Borrower upon receipt by the Administrative Agent of (i) the written approval of each Revolving Lender, and (ii) the Company's written approval of such amendments or other modifications to this Agreement and the other Loan Documents as may reasonably be specified by the Administrative Agent to effect the addition of such Applicant Borrower as a Foreign Borrower (collectively, the "Applicant Borrower Amendments"), it being understood, notwithstanding anything to the contrary in Section 9.02, that any Applicant Borrower Amendments shall be effective when executed and delivered by the Company and the Administrative Agent. The Administrative Agent shall send a notice to the Company and the Lenders specifying the effective date upon which the requested Applicant Borrower shall constitute a Foreign Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Foreign Borrower to receive Loans hereunder, on the terms and conditions set forth herein (as amended by the Applicant Borrower Amendments), and each of the parties hereto agrees that such Applicant Borrower shall for all purposes of this Agreement be a party to and a Foreign Borrower under this Agreement

(b) Notwithstanding the preceding paragraph (a), no Subsidiary shall become a Foreign Borrower if it shall be unlawful for such Subsidiary to become a Borrower hereunder or for any Lender to make Loans or otherwise extend credit to such Subsidiary as provided herein.

(c) The Company may from time to time, upon not less than five (5) Business Days' written notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its reasonable discretion), terminate a Foreign Borrower's status as such upon the execution by the Company and delivery to the Administrative Agent of a Foreign Borrower Termination with respect to such Foreign Borrower; provided that no Foreign Borrower Termination shall become effective as to any Foreign Borrower (other than to terminate its right to make further Borrowings or obtain Letters of Credit under this Agreement) until all Loans made to the terminated Foreign Borrower have been repaid, no Letter of Credit issued for the account of such terminated Foreign Borrower shall remain outstanding, and all amounts payable by such terminated Foreign Borrower in respect of LC Disbursements, interest

and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable by the terminated Foreign Borrower under any Loan Document) have been paid in full. The Administrative Agent will promptly notify the Lenders of any such termination of a Foreign Borrower's status.

### ARTICLE III

#### Representations and Warranties

Each Borrower represents and warrants to the Lenders on the date hereof, on the Effective Date and on each other date on which representations and warranties are made or deemed made hereunder that:

SECTION 3.01. Organization; Powers. The Company and each Subsidiary (a) is duly organized or incorporated, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, (b) has all power and authority and all material Governmental Approvals required for the ownership and operation of its properties and the conduct of its business as now conducted and as proposed to be conducted (except in the case of Non-Significant Subsidiaries, for failures to comply with the foregoing that, individually and in the aggregate, could not reasonably be expected to result in a Material Adverse Effect) and (c) except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business, and is in good standing (to the extent the concept is applicable in such jurisdiction), in every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability. The Transactions to be entered into by each Loan Party are within such Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, stockholder or other equityholder action of each Loan Party. This Agreement has been duly executed and delivered by each Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of each Borrower or such Loan Party, as the case may be, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.30. Governmental Approvals; Absence of Conflicts. The Transactions (a) do not require any material consent or approval of, registration or filing with or any other action by any Governmental Authority, except (i) such as have been or substantially contemporaneously with the initial funding of Loans on the Effective Date will be obtained or made and are (or will so be) in full force and effect and (ii) filings necessary to perfect Liens

created under the Loan Documents, (b) will not violate any applicable law, including any order of any Governmental Authority, (c) will not violate the charter, by-laws or other organizational documents of the Company or any Subsidiary that is not a Non-Significant Subsidiary, (d) will not violate or result (alone or with notice or lapse of time, or both) in a default under any indenture or other material agreement or material instrument binding upon any Borrower or any Subsidiary or any of their assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by any Borrower or any Subsidiary, or give rise to a right of, or result in, any termination, cancellation, acceleration or right of renegotiation of any obligation thereunder, in each case other than under agreements governing Indebtedness, including the Existing Credit Agreement, that will be repaid on the Effective Date and (e) except for Liens created under the Loan Documents, will not result in the creation or imposition of any Lien on any asset of any Borrower or any Subsidiary.

SECTION 3.04. Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders (i) the consolidated balance sheet of the Company as at December 31, 2018, and related statements of operations, comprehensive income, changes in stockholders' equity and cash flows of the Company for the fiscal year ended at December 31, 2018, audited by and accompanied by the opinion of PricewaterhouseCoopers, LLP, independent registered public accounting firm and (ii) an unaudited consolidated balance sheet of the Company as at the end of, and related statements of income and cash flows of the Borrower for, the fiscal quarter and the portion of the fiscal year ended June 30, 2019 (and comparable period for the prior fiscal year), certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries as of such date and for such period in accordance with GAAP, subject to normal yearend audit adjustments and the absence of certain footnotes in the case of the statements referred to in clause (ii) above.

(b) Since December 31, 2018, there has been no event or condition that has resulted, or could reasonably be expected to result, in a material adverse change in the business, assets, operations, performance or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole.

SECTION 3.05. Properties. (a) The Company and each Subsidiary has good title to, or valid leasehold interests in, all its property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) No patents, trademarks, copyrights, licenses, technology, software, domain names, or other Intellectual Property used by the Company or any Subsidiary in the operation of its business infringes upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse

Effect. Except for Disclosed Matters, no claim or litigation regarding any patents, trademarks, copyrights, licenses, technology or other Intellectual Property owned or used by the Company or any Subsidiary is pending against, or, to the knowledge of the Company or any Subsidiary, threatened in writing against, the Company or any Subsidiary that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. As of the Effective Date, each patent, trademark, copyright, license, technology, software, domain name, or other Intellectual Property that, individually or in the aggregate, is material to the business as currently conducted of the Company and the Subsidiaries is owned or licensed, as the case may be, by the Company, a Designated Subsidiary or a Foreign Subsidiary.

SECTION 3.06. Litigation and Environmental Matters. (a) Except for the Disclosed Matters, there are no actions, suits, proceedings, claims or counterclaims by or before any arbitrator or Governmental Authority pending against the Company or any Subsidiary or, to the knowledge of the Company or any Subsidiary based on written notice received by it, threatened against or affecting the Company or any Subsidiary that (i) could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) involve any of the Loan Documents or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, none of the Company or any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability (provided that with respect to this clause (iv), such knowledge shall be deemed to extend solely to the extent of the knowledge of the Company's law department and environmental engineers).

SECTION 3.07. Compliance with Laws and Agreements. The Company and each Subsidiary is in compliance with all laws, including all orders of Governmental Authorities, applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to comply with any such laws, orders, indentures, agreements or other instruments, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. None of the Company or any Subsidiary is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. The Company and each Subsidiary has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused

to be paid all Taxes required to have been paid by it, except where (a)(i) the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) the Company or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP with respect thereto or (b) the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. Employee Benefit Plans; Labor Matters. (a) The Company, each of its ERISA Affiliates, and each Subsidiary is in compliance with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder, except as could not reasonably be expected to result in a Material Adverse Effect. No ERISA Events have occurred or are reasonably expected to occur that could, in the aggregate, reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of such Plan, and the present value of all benefit liabilities of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation dates applicable thereto, exceed the fair market value of the assets of all such underfunded Plans except in each such case where such underfunding could not reasonably be expected to have a Material Adverse Effect.

(b) Each Foreign Pension Plan (if any) is in compliance with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except as could not reasonably be expected to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), neither the Company nor any Subsidiary or any of their respective directors, officers, employees or agents has engaged in a transaction which would subject the Company or any Subsidiary, directly or indirectly, to a tax or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), reserves have been established in the financial statements in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Foreign Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Foreign Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Foreign Pension Plans (based on those assumptions used to fund each such Foreign Pension Plan) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of all such Foreign Pension Plans except in such case where the underfunding could not reasonably be expected to have a Material Adverse Effect.

(c) As of the Effective Date, there are no material strikes or lockouts against or affecting the Company or any Subsidiary pending or, to their knowledge, threatened. The hours worked by and payments made to employees of the Company and the Subsidiaries are not in violation in any material respect or in respect of any material amount under the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law relating to such matters. All material

payments due from the Company or any Subsidiary, or for which any claim may be made against the Company or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as liabilities on the books of the Company or such Subsidiary.

SECTION 3.11. Subsidiaries and Joint Ventures; Disqualified Equity Interests. (a) Schedule 3.11A sets forth, as of the Effective Date, the name and jurisdiction of organization of, and the percentage of each class of Equity Interests owned by the Company or any Subsidiary in, (a) each Subsidiary and (b) each joint venture in which the Company or any Subsidiary owns any Equity Interests, and identifies each Designated Subsidiary, each Material Subsidiary and each Excluded Subsidiary. The Equity Interests in each Subsidiary have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth on Schedule 3.11A, as of the Effective Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Loan Party or any Subsidiary any Equity Interests of which are required to be pledged as Collateral under the Security Documents is a party requiring, and there are no Equity Interests in any such Loan Party or Subsidiary that upon exercise, conversion or exchange would require, the issuance by such Loan Party or Subsidiary of any additional Equity Interests or other securities exercisable for, convertible into, exchangeable for or evidencing the right to subscribe for or purchase any Equity Interests in such Loan Party or Subsidiary.

(b) Schedule 3.11B sets forth, as of the Effective Date, all outstanding Disqualified Equity Interests, if any, in the Company or any Subsidiary, including the number, date of issuance and the record holder of such Disqualified Equity Interests.

SECTION 3.12. Solvency. Immediately after the consummation of the Transactions to occur on the Effective Date, and giving effect to the rights of subrogation and contribution under the Collateral Agreement, (a) the fair value of the assets of the Company and the Subsidiaries, taken as a whole, will exceed their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the assets of the Company and the Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Company and the Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured and (d) the Company and the Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged, as such business is conducted at the time of and is proposed to be conducted following the Effective Date.

SECTION 3.13. Disclosure. None of the reports, financial statements, certificates or other information furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent, any Arranger or any Lender in connection with the negotiation of this Agreement or any other Loan Document, included herein or therein or furnished hereunder or thereunder (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that (a) with respect to forecasts or projected financial information, the

Company represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time made and at the time so furnished and, if furnished prior to the Effective Date, as of the Effective Date (it being understood that such forecasts and projections may vary from actual results and that such variances may be material) and (b) no representation is made with respect to general economic or industry data.

SECTION 3.14 Collateral Matters. (a) The Collateral Agreement, upon execution and delivery thereof by the parties thereto, created or continued in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral (as defined therein) and (i) when the Collateral (as defined therein) constituting certificated securities (as defined in the Uniform Commercial Code) was or is delivered to the Administrative Agent, together with instruments of transfer duly endorsed in blank, the security interest created under the Collateral Agreement will constitute (or, in the case of such Collateral as was delivered prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has maintained possession of such certificated securities) a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Collateral, prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02), and (ii) when financing statements in appropriate form are filed in the applicable filing offices, the security interest created under the Collateral Agreement will constitute (or, in the case of such financing statements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such financing statements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the remaining Collateral (as defined therein) to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

(b) Upon the recordation of the IP Security Agreements with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, and the filing of the financing statements referred to in paragraph (a) of this Section, the security interest created under the Collateral Agreement will constitute (or, in the case of such IP Security Agreements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such IP Security Agreements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Intellectual Property included in the Collateral in which a security interest may be perfected by filing in the United States of America, in each case prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02) (it being understood that subsequent recordings in the United States Patent and Trademark Office or the United States Copyright Office may be necessary to perfect a security interest in Intellectual Property acquired by the Guarantor Loan Parties after the Effective Date).

(c) Each Security Document, other than any Security Document referred to in the preceding paragraphs of this Section, including each Foreign Pledge Agreement, upon execution and delivery thereof by the parties thereto and the making of the filings and taking of the other actions provided for therein, will (or, in the case of such Security Documents delivered prior to the Effective Date, will, subject to the delivery of any required Reaffirmation Documents,



continue to, assuming the Administrative Agent has maintained possession of any physical Collateral covered thereby and taken all required actions to maintain in effect such filings) be effective under applicable law to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral subject thereto, and will constitute, or will continue to constitute, a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Collateral subject thereto, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

SECTION 3.15. Federal Reserve Regulations. None of the Company or any Subsidiary is engaged principally, or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, for any purpose that entails a violation (including on the part of any Lender) of any of the regulations of the Board of Governors, including Regulations U and X. Not more than 25% of the value of the assets of the Company and the Subsidiaries subject to any restrictions on the sale, pledge or other disposition of assets under this Agreement or any other Loan Document are or will at any time be represented by margin stock.

SECTION 3.16 Anti-Corruption Laws and Sanctions.

(a) Subject to paragraph (b) below, the Company and each Foreign Borrower has implemented and maintain in effect policies and procedures reasonably designed to promote compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and their respective officers and employees with Anti-Corruption Laws and applicable Sanctions, and the Company, each Foreign Borrower, their Subsidiaries and their respective officers and, to the knowledge of the Borrowers, their employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Borrower being designated as a Sanctioned Person. None of (a) the Company, the Foreign Borrowers, any Subsidiary or, to the knowledge of the Company, any Foreign Borrower or such Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of the Company or any Foreign Borrower, any agent of the Company or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. The Transactions will not violate any Anti-Corruption Law or applicable Sanctions.

(b) The representation in paragraph (a) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such representation does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

SECTION 3.17. Insurance. Schedule 3.17 sets forth a description of all insurance maintained by or on behalf of the Company and the other Guarantor Loan Parties as of the Effective Date.

SECTION 3.18 EEA Financial Institutions. Neither the Company nor any Borrower is an EEA Financial Institution.

#### ARTICLE IV

##### Conditions

SECTION 4.01 Effective Date. The amendment and restatement of the Existing Credit Agreement in the form of this Agreement and the obligations of the Lenders hereunder to make Loans and other extensions of credit pursuant hereto shall not become effective until the date on which each of the following conditions shall have been satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or other electronic transmission of a signed counterpart of this Agreement) that such party has signed a counterpart of this Agreement;

(b) The principal of and accrued and unpaid interest on all outstanding loans and letter of credit disbursements under the Existing Credit Agreement, and all accrued and unpaid fees and cost reimbursements payable under the Existing Credit Agreement (including all amounts owed in respect of such prepayments pursuant to Section 2.15 of the Existing Credit Agreement), shall have been (or, substantially simultaneously with the effectiveness of this Agreement and the making of Loans hereunder on the Effective Date, shall be) paid in full, and the Administrative Agent shall have received evidence reasonably satisfactory to it of such payment;

(c) The conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied on and as of the Effective Date, and the Administrative Agent shall have received a certificate of a Financial Officer dated the Effective Date to such effect;

(d) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent, the Lenders and the Issuing Banks and dated the Effective Date) of each of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, (ii) John Bedore, internal counsel for the Company, (iii) counsel for each Foreign Borrower in the jurisdiction in which such Foreign Borrower is organized and (iv) local counsel for the Company in each jurisdiction in which any Subsidiary Loan Party is organized, and the laws of which are not covered by the opinion letter referred to in clause (i) above, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(e) The Administrative Agent shall have received such documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing (to the extent applicable) of each Loan Party, the authorization of the transactions contemplated herein and any other legal matters relating to the Loan Parties, the Loan

Documents or the transactions contemplated herein, all in form and substance reasonably satisfactory to the Administrative Agent;

(f) All fees, cost reimbursements and out-of-pocket expenses required to be paid or reimbursed on the Effective Date pursuant hereto or pursuant to the Engagement Letter and the Fee Letters, to the extent invoiced prior to the Effective Date, shall have been paid or will be paid substantially simultaneously with the initial borrowing of the Term Loans (which amounts may be offset against the proceeds of the Term Loans made on the Effective Date to the extent set forth in a flow of funds statement authorized by the Company);

(g) The Administrative Agent shall have received a Reaffirmation Agreement satisfactory in form and substance to it, executed by the Company and each Designated Subsidiary that is a Domestic Subsidiary, acknowledging that the Collateral and Guarantee Requirement will continue to be satisfied and the Administrative Agent shall have received a completed Perfection Certificate dated the Effective Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered prior to the Effective Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will substantially contemporaneously with the initial funding of Loans on the Effective Date be released; provided that the Company need not have satisfied the Collateral and Guarantee Requirement with respect to Foreign Pledge Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements to the extent that the Administrative Agent has, consistent with the definition of "Collateral and Guarantee Requirement", granted extensions of time for execution and delivery of such agreements (including any such extensions granted under the Existing Credit Agreement or pursuant to Section 5.14);

(h) The Administrative Agent shall have received a certificate, substantially in the form of Exhibit H, from a Financial Officer of the Company confirming the solvency of the Company and its Subsidiaries on a consolidated basis on the Effective Date after giving effect to the Transactions contemplated to occur on the Effective Date;

(i) The Administrative Agent shall have received evidence that the insurance required by Section 5.08 is in effect, together with endorsements naming the Administrative Agent, for the benefit of the Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 5.08; and

(j) The Administrative Agent shall have received all documentation and other information about the Borrowers and the Guarantors, including Beneficial Ownership Certifications, as have been reasonably requested by the Administrative Agent or any Lender in writing at least five days prior to the Effective Date and that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money

laundrying rules and regulations, including without limitation the USA PATRIOT Act and the Beneficial Ownership Regulation.

Notwithstanding the foregoing, if the Company shall have used commercially reasonable efforts to procure and deliver, but shall nevertheless be unable to deliver, any document that is required to be delivered in order to satisfy the requirements of the Collateral and Guarantee Requirement or Section 4.01(i), such delivery shall not be a condition precedent to the obligations of the Lenders and the Issuing Banks hereunder on the Effective Date, but shall be required to be accomplished as provided in Section 5.14.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (but not a conversion or continuation of an outstanding Borrowing), and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct, or true and correct in all material respects, on and as of such prior date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable (other than any such Borrowing or Letter of Credit issuance on the Effective Date), no Default shall have occurred and be continuing.

On the date of any Borrowing (but not a conversion or continuation of an outstanding Borrowing) or the issuance, amendment, renewal or extension of any Letter of Credit, the applicable Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (a) and (b) of this Section have been satisfied and that, after giving effect to such Borrowing, or such issuance, amendment, renewal or extension of a Letter of Credit, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment, (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment and (v) the Foreign Borrower Exposure will not exceed \$400,000,000.

SECTION 4.03 Initial Credit Event in Respect of Each Foreign Borrower. The obligations of the Lenders to make Loans to and of the Issuing Banks to issue Letters of Credit for the account of each Foreign Borrower not a party hereto on the date hereof shall be subject to

the satisfaction of the following additional conditions precedent on the date of the initial Borrowing by or Letter of Credit issuance for such Foreign Borrower :

(a) The Administrative Agent shall have received such documents, legal opinions and certificates as the Administrative Agent or its counsel may reasonably request relating to the formation, existence and good standing (to the extent the concept is applicable in such jurisdiction) of such Foreign Borrower, the authorization of the Transactions insofar as they relate to such Foreign Borrower and any other legal matters relating to such Foreign Borrower, its Foreign Borrower Joinder Agreement or such Transactions, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(b) The Lenders shall have received all documentation and other information with respect to such Foreign Borrower required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

## ARTICLE V

### Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

**SECTION 5.01 Financial Statements and Other Information.** The Company will furnish to the Administrative Agent, on behalf of each Lender:

(a) within 90 days after the end of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Annual Report on Form 10-K of the Company for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and related statements of income, stockholders’ equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the prior fiscal year, all audited by and accompanied by the opinion of Pricewaterhouse Coopers L.L.P. or another independent registered public accounting firm of recognized national standing (without a “going concern” or like qualification or exception (except as a result of a maturity date in respect of any Term Loans or Revolving Commitments or Revolving Loans) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such year in accordance with GAAP;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Quarterly Report on Form 10-Q of the Company for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and related consolidated statements of income and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the prior fiscal year, all certified by a Financial Officer of the Company as presenting fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such fiscal quarter and such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes;

(c) not later than the fifth Business Day following the date of delivery of financial statements under clause (a) or (b) above, a completed Compliance Certificate signed by a Financial Officer of the Company, (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.12 and computing the Leverage Ratio and the Secured Leverage Ratio as of the last day of the fiscal period covered by such financial statements, (iii) (x) stating whether any change in GAAP or in the application thereof has occurred since the date of the consolidated balance sheet of the Company most recently theretofore delivered under clause (a) or (b) above (or, prior to the first such delivery, referred to in Section 3.04) and, if any such change has occurred, specifying the effect of such change on the financial statements (including those for the prior periods) accompanying such certificate and (y) if any change in GAAP or in the application thereof has occurred with respect to the treatment of Capital Lease Obligations or other lease obligations, attaching a reconciliation in form and substance reasonably satisfactory to the Administrative Agent, setting forth the differences in such treatment from the treatment effected by the Company pursuant to Section 1.04(b), (iv) certifying that all notices required to be provided under Sections 5.03 and 5.04 have been provided or identifying and providing any such notices not previously provided, (v) in the case of any delivery of financial statements under clause (a) above, unless the Investment Grade Date has occurred, setting forth a reasonably detailed calculation of Adjusted Consolidated Net Income for the applicable fiscal year, (vi) in the case of any delivery of financial statements under clause (a) above, setting forth reasonably detailed calculations as of the last day of the most recent fiscal quarter covered by such financial statements with respect to which Subsidiaries are Material Subsidiaries based on the information contained in such financial statements and identifying each Subsidiary, if any, that has automatically been designated a Material Subsidiary in order to satisfy the condition set forth in the definition of the term "Material Subsidiary" and of the calculation of Excess Cash Flow for such fiscal year (beginning with the fiscal year ending December 31,

2020), and (vii) identifying, as of the last day of the most recent fiscal quarter covered by such financial statements, each Subsidiary that (A) is an Excluded Subsidiary as of such date but has not been identified as an Excluded Subsidiary in Schedule 3.11A or in any prior Compliance Certificate or (B) has previously been identified as an Excluded Subsidiary but has ceased to be an Excluded Subsidiary;

(d) not later than five days after any delivery of financial statements under paragraph (a) above, a certificate of the accounting firm that reported on such financial statements stating whether it obtained knowledge during the course of its examination of such financial statements of any Default relating to compliance with Section 6.12 as of, or for the Test Period ending, on the last day of any fiscal quarter during the fiscal year covered by such financial statements and, if such knowledge has been obtained, describing such Default (which certificate may be limited to the extent required or recommended by accounting rules or guidelines and may assume the accuracy of any Pro Forma Adjustments made by the Company to Consolidated EBITDA for the Test Periods involved);

(e) promptly after the same has been submitted to and reviewed by the board of directors of the Company in each fiscal year, a consolidated budget for such fiscal year in substantially the same form and detail as the 2019 budget furnished to the Administrative Agent prior to the Effective Date, setting forth the assumptions used for purposes of preparing such budget, and, promptly after the same have been submitted to and reviewed by the board of directors of the Company, any material revisions to such budget;

(f) promptly after any request therefor by the Administrative Agent or any Lender, copies of (i) any documents described in Section 101(k)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan and (ii) any notices described in Section 101(l)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan; provided that if the Company or any of its ERISA Affiliates has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Company or the applicable ERISA Affiliate shall upon the reasonable request of the Administrative Agent promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof;

(g) promptly after any request therefor, such other non-privileged information regarding compliance with the USA PATRIOT Act and the Beneficial Ownership Regulation, as the Administrative Agent or any Lender may reasonably request; and

(h) promptly after any request therefor, such other non-privileged information regarding the operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition of the Company or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request; provided that the Company will not be required to provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary

information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

Information required to be delivered pursuant to clause (a) or (b) of this Section shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall have been posted by the Administrative Agent on an IntraLinks or similar site to which the Lenders have been granted access or shall be available on the website of the SEC at <http://www.sec.gov>. Information required to be delivered pursuant to this Section may also be delivered by electronic communications pursuant to procedures approved by the Administrative Agent.

SECTION 5.02. Notices of Material Events. The Company will furnish to the Administrative Agent prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Company or any Subsidiary, or any adverse development in any such pending action, suit or proceeding not previously disclosed in writing by the Company to the Administrative Agent and the Lenders, that in each case could reasonably be expected to result in a Material Adverse Effect or that in any manner questions the validity of any Loan Document;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

(d) any other development that has resulted, or could reasonably be expected to result, in a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Company setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto; provided that the Company will not be required to provide any information pursuant to this Section 5.02 (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the



Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

SECTION 5.03 Additional Subsidiaries. (a) If any Material Subsidiary is formed or acquired after the Effective Date, the Company will, as promptly as practicable, and in any event within 30 days (or such longer period as the Administrative Agent may agree to in writing), notify the Administrative Agent thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Material Subsidiary (if it is a Designated Subsidiary) and with respect to any Equity Interests of such Subsidiary owned by any Guarantor Loan Party (including, in the case of any Equity Interests of a Foreign Subsidiary held by a Guarantor Loan Party, if requested by the Administrative Agent, the execution and delivery of a Foreign Pledge Agreement with respect to such Equity Interests (subject to the limitations referred to in the definition of “Collateral and Guarantee Requirement” and, if applicable, the taking of other necessary actions to perfect the security interest of the Administrative Agent in such Equity Interests).

(b) The Company may designate any Domestic Subsidiary that is not otherwise a Designated Subsidiary as a Designated Subsidiary; provided that (i) such Subsidiary shall have delivered to the Administrative Agent a supplement to the Collateral Agreement, in the form specified therein, duly executed by such Subsidiary, (ii) the Company shall have delivered a certificate of a Financial Officer or other executive officer of the Company to the effect that, after giving effect to any such designation and such Subsidiary becoming a Subsidiary Loan Party hereunder, the representations and warranties set forth in this Agreement and the other Loan Documents as to such Subsidiary shall be true and correct in all material respects and no Default shall have occurred and be continuing and (iii) such Subsidiary shall have delivered to the Administrative Agent documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01, in each case, if reasonably requested by the Administrative Agent.

SECTION 5.04 Information Regarding Collateral. (a) The Company will, at all times during each Non-Investment Grade Period prior to the Release Date, furnish to the Administrative Agent prompt written notice of any change in (i) the legal name of any Guarantor Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Guarantor Loan Party (including as a result of any merger or consolidation), (iii) the location of the chief executive office of any Guarantor Loan Party or (iv) the organizational identification number, if any, or, with respect to any Guarantor Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a Uniform Commercial Code financing statement, the Federal Taxpayer Identification Number of such Guarantor Loan Party. The Company agrees not to effect or permit any change referred to in the preceding sentence during any Non-Investment Grade Period prior to the Release Date unless all filings have been made (or the Administrative Agent shall have been advised of the Company’s intent to make such change and shall have received all the information necessary to, and shall have been authorized to, make all filings) under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times

following such change to have a valid, legal and perfected security interest in all the Collateral owned by such Guarantor Loan Party.

(b) Each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to Section 5.01(a), the Company shall deliver to the Administrative Agent a certificate executed by an officer of the Company setting forth the information required pursuant to the Perfection Certificate or confirming that there has been no change in such information since the date of such certificate or the date of the most recent certificate delivered pursuant to this Section 5.04(b)

SECTION 5.05. Existence; Conduct of Business. (a) The Company and each Subsidiary will do or cause to be done all things reasonably necessary to preserve, renew and keep in full force and effect its legal existence and exercise commercially reasonable efforts to preserve, renew and keep in full force and effect those licenses, permits, privileges, and franchises (other than Intellectual Property) that are material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation, amalgamation, dissolution or similar transaction permitted under Section 6.03 or any Disposition permitted by Section 6.05. The Company and the Subsidiaries will exercise commercially reasonable efforts in accordance with industry standard practices to preserve, renew and keep in full force and effect their Intellectual Property licenses and rights, and their patents, copyrights, trademarks and trade names, in each case material to the conduct of their business, except where the failure to take such actions, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any Disposition permitted by Section 6.05.

(b) The Company and each Subsidiary will take all actions reasonably necessary in accordance with industry standard practices to protect all patents, trademarks, copyrights, technology, software, domain names and other Intellectual Property material to the conduct of its business, including (i) protecting the secrecy and confidentiality of the confidential information and trade secrets of the Company or such Subsidiary by having and following a policy requiring employees, consultants, licensees, vendors and contractors to execute confidentiality agreements when it is likely that confidential information will be shared with them, (ii) taking all actions reasonably necessary in accordance with industry standard practices to ensure that trade secrets of the Company or such Subsidiary do not fall into the public domain and (iii) protecting the secrecy and confidentiality of the source code of computer software programs and applications owned or licensed out by the Company or such Subsidiary by having and following a policy requiring licensees of such source code (including licensees under any source code escrow agreement) to enter into agreements with use and nondisclosure restrictions, except with respect to any of the foregoing where the failure to take any such action, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06 Payment of Obligations. The Company and each Subsidiary will pay its obligations (other than obligations with respect to Indebtedness), including Tax liabilities, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Company or such

Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 5.07 Maintenance of Properties. The Company and each Subsidiary will keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Insurance. The Company and each Subsidiary will maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations. Each such policy of liability or casualty insurance maintained by or on behalf of the Guarantor Loan Parties shall (a) in the case of each liability insurance policy (other than workers' compensation, director and officer liability or other policies in which such endorsements are not customary), name the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder, (b) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties, as the loss payee thereunder and (c) to the extent available on commercially reasonable terms, provide for at least 30 days' (or 10 days' if such cancellation results from non-payment) (or such shorter number of days as may be agreed to by the Administrative Agent, in its discretion) prior written notice to the Administrative Agent of any cancellation of such policy.

SECTION 5.09. Books and Records; Inspection and Audit Rights. The Company and each Subsidiary will keep proper books of record and account in which full, true and correct entries in accordance with GAAP and applicable law are made of all dealings and transactions in relation to its business and activities. The Company and each Subsidiary will permit the Administrative Agent or any Lender, and any agent designated by any of the foregoing, upon reasonable prior notice and, subject to applicable legal privileges, (a) to visit and inspect its properties, (b) to examine and make extracts from its books and records and (c) to discuss its operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested provided that (i) unless an Event of Default shall have occurred and be continuing, no such discussion with any such independent accountants shall be permitted unless the Company shall have received reasonable notice thereof and a reasonable opportunity to participate therein and no Lender shall exercise such rights more often than two times during any calendar year and (ii) the reasonable costs and expenses of Lenders in connection with such visits and examinations shall be borne by the Company only after the occurrence and during the continuance of an Event of Default. Notwithstanding the foregoing, neither the Company nor its Subsidiaries will be required to reveal to the Administrative Agent or any Lender any information (a) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (b) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (c) the

revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided that if any information is withheld pursuant to this sentence, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

#### SECTION 5.10 Compliance with Laws.

(a) The Company and each Subsidiary will comply with all Requirements of Law, including Environmental Laws, ERISA and the laws applicable to each Foreign Pension Plan, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) The Company and each Foreign Borrower will maintain in effect and enforce policies and procedures reasonably designed to promote compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and the respective directors, officers and employees of the foregoing with Anti-Corruption Laws and applicable Sanctions.

(c) The covenant in paragraph (b) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such covenant does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

SECTION 5.11 Use of Proceeds and Letters of Credit. (a) The proceeds of the Initial Term Loans will be used to repay amounts owing under the Existing Credit Agreement on the Effective Date, to pay Transaction Costs and otherwise for working capital and general corporate purposes. The proceeds of the Delayed Draw Term Loans will be used (i) solely to refinance all of the Existing 5.875% Notes and to pay fees and expenses in connection therewith and (ii) to the extent of any remaining proceeds, solely to refinance all or any portion of the Existing 6.375% Notes and to pay fees and expenses in connection therewith; provided that the Company may temporarily use the proceeds of the Delayed Draw Term Loans to repay Revolving Loans, so long as on or prior to December 31, 2019 such proceeds are ultimately reapplied as set forth above. The proceeds of the Revolving Loans will be used on and after the Effective Date for working capital and other general corporate purposes of the Company, the Foreign Borrowers and the other Subsidiaries. Letters of Credit will be used by the Company, the Foreign Borrowers and the other Subsidiaries for general corporate purposes.

(b) No Borrower will request any Borrowing or Letter of Credit, and no Borrower shall use, and each Borrower shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or any Letter of Credit (i) 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, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country to the extent such activities, businesses or transaction would be permissible for a Person required to comply with Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.12. Further Assurances. Each Borrower and each other Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied at all times or otherwise to effectuate the provisions of the Loan Documents, all at the expense of the Loan Parties. The Company will provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

SECTION 5.13. Maintenance of Ratings. The Company will use commercially reasonable efforts to maintain continuously in effect a rating of the credit facilities hereunder by S&P and Moody's.

SECTION 5.14. Certain Post-Closing Collateral Obligations. As promptly as practicable, and in any event within the time period after the Effective Date set forth therefor in Schedule 5.14 (or such later date as the Administrative Agent may agree), the Company and each other Guarantor Loan Party will satisfy the requirements set forth on Schedule 5.14, including, but not limited to, the delivery of all Foreign Pledge Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements that would have been required to be delivered on the Effective Date but for the exception contained in Section 4.01(g), and take or cause to be taken such other actions as may be necessary to comply with the Collateral and Guarantee Requirement with respect to such Foreign Pledge Agreements and the Equity Interests subject thereto, in each case except (i) to the extent otherwise agreed by the Administrative Agent pursuant to its authority as set forth in the definition of the term "Collateral and Guarantee Requirement" or (ii) in the event a requirement of Schedule 5.14 is no longer applicable due to the permitted sale or transfer of the Equity Interests of a Subsidiary prior to the time period required to satisfy such requirement set forth in Schedule 5.14.

## ARTICLE VI

### Negative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 6.01 Indebtedness; Certain Equity Securities. None of the Company or any Subsidiary will create, incur, assume or permit to exist any Indebtedness, except:

(i) Indebtedness created under the Loan Documents;

(ii) (x) Indebtedness existing on the Effective Date and (except in the case of Guarantees in an amount less than \$10,000,000) set forth on Schedule 6.01, (y) Refinancing Indebtedness in respect of debt owed to non-Affiliates reflected on such schedule and (z) extensions and renewals of debt owed by the Company or any Subsidiary to the Company or any Subsidiary reflected on such schedule;

(iii) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary; provided that (A) such Indebtedness shall not have been transferred to any Person other than the Company or any Subsidiary and (B) any such Indebtedness owing by any Loan Party shall be unsecured and, during any Pledge Effectiveness Period, subordinated in right of payment to the Loan Document Obligations in accordance with the provisions of Exhibit D hereto;

(iv) (x) Guarantees incurred in compliance with clause (a)(xiv) or (xv) below, (y) Guarantees by Guarantor Loan Parties of Indebtedness of other Guarantor Loan Parties, Guarantees by Foreign Borrowers of Indebtedness of other Foreign Borrowers and Guarantees by Subsidiaries that are not Loan Parties of Indebtedness of other Subsidiaries that are not Loan Parties, in each case, in respect of Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 (other than clauses (ii), (vi) and (xi)); provided, that if the Indebtedness that is being Guaranteed is unsecured and/or subordinated to the Loan Document Obligations, the Guarantee shall also be unsecured and/or subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders and (z) Guarantees by Guarantor Loan Parties of Indebtedness of Subsidiaries that are not Guarantor Loan Parties, other than in respect of Permitted Cash Pooling Arrangements, in an aggregate principal amount not at any time in excess of the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(v) Indebtedness of the Company or any Subsidiary (x)(A) incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and Synthetic Lease Obligations; provided that such Indebtedness is incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement and the principal amount of such Indebtedness does not exceed the cost of acquiring, constructing or improving such fixed or capital assets or (B) assumed in connection with the acquisition of any fixed or capital assets, and Refinancing Indebtedness in respect of any of the foregoing; provided that the aggregate principal amount of Indebtedness permitted by this clause (a)(v)(x) shall not at any time outstanding, exceed the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and (y) Indebtedness of the Company or any Subsidiary consisting of Capital Lease Obligations or Synthetic Lease

Obligations incurred in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions;

(vi) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary in a Permitted Acquisition; provided that (A) such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (B) neither the Company nor any Subsidiary (other than such Person or the Subsidiary with which such Person is merged or consolidated or the Person that so assumes such Person's Indebtedness) shall Guarantee or otherwise become liable for the payment of such Indebtedness, and Refinancing Indebtedness in respect of any of the foregoing; provided that after giving effect to such Indebtedness permitted by this clause (vi), the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12;

(vii) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not in excess of the greater of (x) \$400,000,000 and (y) 5.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(viii) (A)(x) Indebtedness of the Company or other Domestic Subsidiaries in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services; provided that such Indebtedness shall be repaid in full within 45 days of the incurrence thereof and (y) Indebtedness of Foreign Subsidiaries in respect of Permitted Cash Pooling Arrangements; provided that such Indebtedness (1) shall not exceed the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof in the aggregate at any time outstanding and (2) shall be reduced to zero not less frequently than every 90 days, (B) Indebtedness owed by the Company or any Subsidiary to the Company or any Subsidiary pursuant to intercompany cash pooling arrangements in the ordinary course of business and consistent with past practices and (C) Indebtedness in connection with automated clearing-house transfers of funds;

(ix) (x) Indebtedness in respect of letters of credit, surety and performance bonds, bank guarantees, appeal bonds and similar instruments issued for the account of the Company or any Subsidiary supporting obligations of the Company or any Subsidiary under (A) workers' compensation and other social security and/or insurance laws in the ordinary course of business, (B) bids, trade contracts, leases, statutory obligations, customs/duties, taxes and obligations of a like nature in the ordinary course of business and (C) judgments pending appeal that do not constitute an Event of Default and (y)

Indebtedness of the type referred to in clause (f) of the definition thereof securing judgments, decrees, attachments or awards that do not constitute an Event of Default under clause (1) of Article VII;

(x) Indebtedness of the Company or any Subsidiary in the form of purchase price adjustments, earn-outs or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with any Permitted Acquisition or any other Investment;

(xi) Indebtedness in respect of any Permitted Receivables Facility (including in respect of any Standard Receivables Undertakings incurred in connection therewith);

(xii) Permitted Additional Indebtedness; provided that, after giving effect to the incurrence thereof, the Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more than the then applicable ratio under Section 6.12 for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Section 5.01(a) or Section 5.01(b) (after giving effect, however, to any adjustments to such applicable ratio based on the Cumulative Leverage Ratio Increase Amount reflecting any such Indebtedness that constitutes Pension Funding Indebtedness); provided, further, however, that notwithstanding anything to the contrary set forth in the definition of Permitted Additional Indebtedness, any Indebtedness incurred pursuant to this clause (xii) may be secured by the Collateral to the extent permitted by Section 6.02(a)(xvii);

(xiii) other Indebtedness in an aggregate principal amount not exceeding at any time outstanding the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof; provided that the aggregate principal amount of Indebtedness of the Subsidiaries that are not Guarantor Loan Parties permitted by this clause (xiii) shall not exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xiv) Guarantees or joint and several liability arising under a Dutch fiscal unity (*fiscale eenheid*) for Dutch corporate tax or VAT purposes solely existing of Loan Parties;

(xv) Indebtedness arising under a declaration of joint and several liability used for the purpose of Article 2:403 of the Dutch Civil Code (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code); and

(xvi) any Defeased Debt.

For purposes of determining compliance with this Section 6.01(a), (i) Indebtedness need not be permitted solely by reference to one category of permitted



Indebtedness described in this Section 6.01(a) but may be permitted in part under any combination thereof and (ii) in the event that Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness described in this Section 6.01(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Indebtedness (or portion thereof) in one of the clauses of this Section 6.01(a), and such Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b) The Company will not permit any Subsidiary to issue any preferred Equity Interests except for preferred Equity Interests issued to and held by the Company or any other Subsidiary (and, in the case of any preferred Equity Interests issued by any Foreign Borrower or Subsidiary Loan Party, such preferred Equity Interests shall be held by the Company, a Borrower or a Subsidiary Loan Party).

SECTION 6.02. Liens. (a) None of the Company or any Subsidiary will create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable and royalties) or rights in respect of any thereof, except:

(i) Liens created under the Loan Documents;

(ii) Permitted Encumbrances;

(iii) any Lien on any asset of the Company or any Subsidiary existing on the Effective Date and set forth on Schedule 6.02; provided that (A) such Lien shall not apply to any other asset of the Company or any Subsidiary and (B) such Lien shall secure only those obligations that it secures on the date hereof and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(iv) any Lien existing on any asset prior to the acquisition thereof by the Company or any Subsidiary or existing on any asset of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (A) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or such merger or consolidation), (B) such Lien shall not apply to any other asset of the Company or any Subsidiary (other than, in the case of any such merger or consolidation, the assets of any Subsidiary that is a party thereto) and (C) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated), and any extensions, renewals and refinancings thereof that do

not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(v) (A) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary; provided that (x) such Liens secure only Indebtedness permitted by Section 6.01(a)(v) and (y) such Liens shall not apply to any other asset of the Company or any Subsidiary (other than the proceeds and products thereof); provided, further, that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of any fixed or capital assets, such Liens may secure all such purchase money obligations and may apply to all such fixed or capital assets financed by such Person and (B) Liens on assets arising in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions to the extent permitted under Section 6.01(a)(v)(y);

(vi) in connection with the sale or transfer of any Equity Interests or other assets in a transaction permitted under Section 6.05, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(vii) in the case of (A) any Subsidiary that is not a wholly-owned Subsidiary or (B) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the organizational documents of such Subsidiary or such other Person or any related joint venture, shareholders' or similar agreement, including any such Liens arising under the Brazil Transaction Documents;

(viii) Liens solely on any cash earnest money deposits, escrow arrangements or similar arrangements made by the Company or any Subsidiary in connection with any letter of intent or purchase agreement for a Permitted Acquisition or other transaction permitted hereunder;

(ix) any interest or title of a lessor under leases (other than leases constituting Capital Lease Obligations) entered into by the Company or any of the Subsidiaries in the ordinary course of business;

(x) Liens deemed to exist in connection with Investments in repurchase agreements that are Permitted Investments;

(xi) Liens on property of any Subsidiary that is not a Loan Party, which Liens secure Indebtedness of such Subsidiary permitted under Section 6.01;

(xii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods by any of the Subsidiaries in the ordinary course of business;

(xiii) Liens in favor of any Receivables Subsidiary, or any collateral agent (or other party acting in a similar capacity) for holders of Third Party Interests or any third-party buyer or purchaser of Receivables, in each case, in connection with a Permitted Receivables Financing;

(xiv) leases, licenses, subleases or sublicenses, including non-exclusive software licenses, granted to others that do not (A) interfere in any material respect with the business of the Company and the Subsidiaries, taken as a whole, or (B) secure any Indebtedness;

(xv) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xvi) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xvii) Liens on the Collateral securing Permitted Additional Indebtedness in the form of term loans or notes; provided that, (x) after giving effect to the incurrence of such Indebtedness, the Secured Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more 3.00 to 1.00, (y) any such Liens shall rank pari passu or junior to the Liens securing the Obligations and shall be subject to intercreditor arrangements reasonably acceptable to the Administrative Agent and (z) to the extent the Liens securing any term loans rank pari passu to the Liens securing the Obligations, the applicable Indebtedness shall be subject to clause (v) of the second proviso in Section 2.20(b) as if such Indebtedness was incurred in the form of Incremental Term Loans;

(xviii) to the extent constituting Liens on the assets of the Company or any of its Subsidiaries, Liens incurred in connection with any Defeased Debt;

(xix) to the extent required by the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations thereunder, cash margin deposits securing obligations

under Hedging Agreements permitted under Section 6.07, in an aggregate amount not to exceed the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xx) Liens on (i) deposit accounts of the Company and Domestic Subsidiaries, and related set-off rights of cash management banks securing Indebtedness permitted by Section 6.01(viii)(A)(x) and (ii) deposit accounts of Foreign Subsidiaries and related set-off rights of cash management banks servicing Permitted Cash Pooling Arrangements, including in each case, fees and other obligations to cash management banks with respect to the provision of cash management services (but not other obligations); and

(xxi) Liens incurred to secure any Notes issued in connection with a Permitted Material Acquisition pursuant to the Permitted Escrow Transactions with respect to such Notes; provided that such Liens are discharged and released on the earliest to occur of (i) the release of the Permitted Escrow Funds with respect to such Notes to pay a portion of the consideration for such Permitted Material Acquisition in connection with the consummation thereof, (ii) the release of the Permitted Escrow Funds with respect to such Notes to repay in full the principal of and accrued interest on such Notes in the event that the acquisition agreement relating to such Permitted Material Acquisition is terminated in accordance with its terms prior to the consummation of such Permitted Material Acquisition or such Permitted Material Acquisition is abandoned and (iii) the date of the termination of the escrow period provided in the escrow agreement applicable to such Notes.

For purposes of determining compliance with this Section 6.02(a), (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in this Section 6.02(a) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens described in this Section 6.02(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien (and portion of Indebtedness secured thereby) in one of the above clauses, and such Lien securing such item of Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b) Notwithstanding the foregoing, no Subsidiary that is a Designated Subsidiary as of the Effective Date shall create, incur, assume or permit to exist any Lien (other than any non-consensual Lien or any Lien of the type referred to in Section 6.02(a)(iv)) on any Equity Interests that are required by the Collateral and Guarantee Requirement to be pledged as Collateral (or, in the case of Equity Interests of any Foreign Subsidiary or CFC Holdco, Equity Interests that would be required to be pledged if such Subsidiary became a Material Subsidiary), except pursuant to the Security Documents.

(c) Notwithstanding the foregoing, neither the Company nor any Subsidiary shall grant to any third party any license or sublicense of Intellectual Property; provided that the foregoing will not restrict or prohibit (i) non-exclusive licenses and sublicenses of Intellectual Property entered into in the ordinary course of business in compliance with clause (a)(xiv) above; (ii) exclusive licenses and sublicenses of Intellectual Property in compliance with clause (a)(xiv) above that are on arms-length terms and are exclusive only in respect of fields of use that are not included in the business of the Company and its Subsidiaries in any material respect and (iii) Economic IP Transfers.

SECTION 6.03 Fundamental Changes; Business Activities. (a) None of the Company or any Subsidiary will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing, (i) any Person may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Person (other than the Company) may merge or consolidate with any Foreign Borrower in a transaction in which the surviving entity is a Foreign Borrower, (iii) any Person (other than a Borrower) may merge or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (and, if any party to such merger or consolidation is a Subsidiary Loan Party, is a Subsidiary Loan Party), (iv) any Subsidiary may merge into or consolidate with any Person (other than a Borrower) in a transaction permitted under Section 6.05 in which, after giving effect to such transaction, the surviving entity is not a Subsidiary, and (v) any Subsidiary (other than a Foreign Borrower, unless such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders; provided that the assets and operations of any Material Subsidiary that is liquidated or dissolved shall be transferred to the Company, a Subsidiary Loan Party, or the direct holder of the Equity Interests of such Material Subsidiary in connection therewith.

(b) None of the Company or any Subsidiary will engage to any material extent in any business other than businesses of the type conducted by the Company and the Subsidiaries on the date hereof and businesses reasonably related thereto.

(c) The Company will not permit any Person other than the Company, one or more of its subsidiaries that is not a CFC and minority investors in Excluded Subsidiaries, to own any Equity Interests in any Domestic Subsidiary (other than as a result of an acquisition of a CFC that owns Equity Interests in a Domestic Subsidiary and such ownership structure is not established in contemplation of such acquisition). Notwithstanding the foregoing, a CFC may own the Equity Interests of a CFC Holdco.

(d) Notwithstanding any provision to the contrary herein, (i) the Company will not, and will not permit any Subsidiary to, sell, transfer or contribute any Equity Interests or operating assets of the Company or any Subsidiary to Lower Fox River Remediation LLC, (ii) so long as Lower Fox River Remediation LLC is a Subsidiary, neither the Company nor any

Subsidiary shall create, incur, assume or permit to exist any Lien (other than any non-consensual Liens or any Lien of the type referred to in Section 6.02(iv) or (vii)) on the Equity Interests of Lower Fox River Remediation LLC, (iii) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC shall not create, incur, assume or permit to exist any Indebtedness for borrowed money, and (iv) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC will not engage to any material extent in any business other than environmental remediation and retaining the services of engineering, other advisory firms and other service providers in connection therewith.

SECTION 6.04. Acquisitions. The Company will not consummate, and will not permit any Subsidiary to consummate: (i) any Material Acquisition for consideration in excess of \$75,000,000 other than a Permitted Acquisition; and (ii) other Investments (excluding Investments in Subsidiaries by the Company or other Subsidiaries that do not involve third parties) if the amount of any such Investment is in excess of \$75,000,000 unless, after giving effect thereto, the Company is in Pro Forma Compliance with the covenant set forth in Section 6.12.

SECTION 6.05. Asset Sales. None of the Company or any Subsidiary will sell, transfer, lease or otherwise dispose of (including pursuant to any transfer or contribution to a Subsidiary), or exclusively license, any asset, including any Equity Interest owned by it, nor will any Subsidiary issue any additional Equity Interest in such Subsidiary (other than to the Company or a Subsidiary, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law) (each, a "Disposition"; provided that an Economic IP Transfer shall not constitute a Disposition), except:

(a) Dispositions of inventory or used or surplus equipment in the ordinary course of business or of cash and Permitted Investments and the granting of non-exclusive licenses and sublicenses of Intellectual Property in the ordinary course of business;

(b) Dispositions to the Company or any Subsidiary; provided that any such Dispositions involving a Subsidiary that is not a Guarantor Loan Party shall be made in compliance with Section 6.09; provided that no Disposition of Intellectual Property material to the business or operations of the Company and its Subsidiaries, taken as a whole, owned by a Guarantor Loan Party may be made to a Subsidiary that is not a Guarantor Loan Party pursuant to this clause (b);

(c)(i) Dispositions of Receivables in connection with the compromise or collection thereof in the ordinary course of business and not as part of any Permitted Receivables Facility and (ii) Dispositions of Receivables pursuant to a Permitted Receivables Facility;

(d) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

(e) any Permitted IP Transfer;

(f) sales by the Company or Subsidiaries of Receivables to one or more Receivables Subsidiaries in connection with any Permitted Receivables Facility; provided that (i) each such Permitted Receivables Facility is effected on terms which are considered customary for such a facility, as determined in good faith by the Company or such Subsidiary, (ii) the aggregate amount of the Seller's Retained Interests in such Permitted Receivables Facilities does not exceed an amount at any time outstanding that is customary for similar transactions, as determined in good faith by the Company or such Subsidiary and (iii) the proceeds to each such Receivables Subsidiary from the issuance of Third Party Interests are applied substantially simultaneously with the receipt thereof to the purchase from the Company or Subsidiaries of Receivables;

(g) Scheduled Dispositions and Sale/Leaseback Transactions permitted by Section 6.06;

(h) the issuance to Scopus Industrial or its Affiliates of 49% of the outstanding common Equity Interests of NCR Manaus pursuant to the Brazil Subscription Agreement;

(i) Dispositions of assets subject to any casualty or condemnation proceeding (including in lieu thereof);

(j) Dispositions of Investments in joint ventures (other than NCR Manaus) to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements and, to the extent made pursuant to the requirements of the Brazil Shareholders' Agreement, any sale or Disposition of Equity Interests of NCR Manaus to Scopus Industrial or its Affiliates or designees upon their exercise of call rights under such agreement;

(k) Dispositions of assets that are not permitted by any other clause of this Section; provided that all Dispositions made in reliance on this clause shall be made for fair value and at least 75% Cash Consideration; provided, further, that any Designated Non-Cash Consideration received by the Company or any of its Subsidiaries in respect of such sale, transfer, lease or other disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not in excess of \$25,000,000 at the time of the receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be Cash Consideration;

(l) the sale by Retailix, Ltd. or a subsidiary of Retailix, Ltd. of, or the issuance by any subsidiary of Retailix, Ltd. of, Equity Interests in a subsidiary of Retailix, Ltd. to any Person upon the exercise of options or rights to acquire such Equity Interests outstanding prior to the date on which Retailix, Ltd. became a Subsidiary and not granted in contemplation thereof; and

(m) Dispositions of assets related to the business of the Company and its Subsidiaries to one or more joint ventures in exchange for Equity Interests in such joint ventures; provided that the aggregate book value of all assets Disposed of in reliance on this clause after the Effective Date shall not exceed the greater of (x) \$200,000,000 and (y) 2.5% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof.

“Cash Consideration” means, in respect of any Disposition by the Company or any Subsidiary, (a) cash or Permitted Investments received by it in consideration of such Disposition, (b) any liabilities (as shown on the most recent balance sheet of the Company provided hereunder or in the footnotes thereto) of the Company or such Subsidiary, other than liabilities that are by their terms subordinated in right of payment to the Loan Document Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Company and all of the Subsidiaries shall have been validly released by all applicable creditors in writing and (c) any securities received by the Company or such Subsidiary from such transferee that are converted by the Company or such Subsidiary into cash or Permitted Investments (to the extent of the cash or Permitted Investments received) within 90 days following the closing of the applicable Disposition.

Notwithstanding the foregoing, and other than Dispositions to the Company or a Subsidiary, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law, (i) no Disposition of any Equity Interests in any Subsidiary during a Pledge Effectiveness Period, or in any Foreign Borrower or Subsidiary Loan Party at any other time, shall be permitted unless, except with respect to any Foreign Borrower or Subsidiary Loan Party in the case of clause (g), (h), (j) or (l) above, such Equity Interests constitute all the Equity Interests in such Subsidiary held by the Company and the Subsidiaries, and in the case of any Disposition of a Foreign Borrower, such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23 and (ii) any Disposition of any assets pursuant to this Section 6.05 (except for those involving no party that is not a Loan Party), shall be for no less than the fair market value of such assets at the time of such Disposition.

SECTION 6.06. Sale/Leaseback Transactions. None of the Company or any Subsidiary will enter into any Sale/Leaseback Transaction, except for any such sale of any fixed or capital assets by any Subsidiary that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 180 days after such Subsidiary acquires or completes the construction of such fixed or capital asset (unless such Sale/



Leaseback Transaction is entered into in order to effect a Scheduled Disposition of assets reflected as such in the letters provided to the Administrative Agent prior to the Effective Date); provided that (a) the sale or transfer of the property thereunder is permitted under Section 6.05, (b) any Capital Lease Obligations and Synthetic Lease Obligations arising in connection therewith are permitted under Section 6.01 and (c) any Liens arising in connection therewith (including Liens deemed to arise in connection with any such Capital Lease Obligations and Synthetic Lease Obligations) are permitted under Section 6.02.

SECTION 6.07. Hedging Agreements. None of the Company or any Subsidiary will enter into any Hedging Agreement, except (a) Hedging Agreements entered into to hedge or mitigate risks to which the Company or any Subsidiary has actual exposure (other than in respect of Equity Interests or Indebtedness of the Company or any Subsidiary) and (b) Hedging Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Company or any Subsidiary.

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness. (a) None of the Company or any Subsidiary will declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that (i) the Company may declare and pay dividends with respect to its Equity Interests payable solely in additional Equity Interests permitted hereunder, (ii) any Subsidiary may declare and pay dividends or make other distributions with respect to its capital stock, partnership or membership interests or other similar Equity Interests, or make other Restricted Payments in respect of its Equity Interests, in each case ratably to the holders of such Equity Interests or its Equity Interests of the relevant class, as the case may be, (iii) the Company may acquire Equity Interests upon the exercise of stock options if such Equity Interests are transferred in satisfaction of a portion of the exercise price of such options, (iv) the Company may make cash payments in lieu of the issuance of fractional shares representing insignificant interests in the Company in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests in the Company, (v) the Company may make Restricted Payments, not exceeding \$5,000,000 in the aggregate for any fiscal year, pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, officers or employees of the Company and the Subsidiaries; provided, however, that any such permitted amount not utilized in a particular fiscal year may be carried forward and utilized in subsequent fiscal years, (vi) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments in an amount not exceeding the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such Restricted Payment in reliance on this clause (vi), (vii) so long as no Default or Event of Default shall have occurred and be continuing, the Company may make Restricted Payments in respect of Equity Interests of the Company in an amount not to exceed (x) \$50,000,000 in the aggregate during the fiscal year ended December 31, 2019, and (y) \$50,000,000 in the aggregate during any fiscal year thereafter; provided, however, that any such permitted amount not utilized to make Restricted Payments in a particular fiscal year may be carried forward and utilized to make Restricted Payments in subsequent fiscal years, (viii) so

long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments with respect to, and in connection with, redemptions of the Existing Preferred, (ix) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto (determined, however, solely for purposes of this clause (ix) by subtracting 0.50 from the financial covenant level otherwise applicable in Section 6.12), the Company may make other Restricted Payments, (x) any Foreign Subsidiary may make Restricted Payments to redeem its outstanding Equity Interests held by minority investors in such Foreign Subsidiary and (xi) in the case of a Receivables Subsidiary, to make Restricted Payments in respect of the Seller's Retained Interests or other applicable Equity Interests to the extent of net income or other assets available therefor.

(b) Prior to the Investment Grade Date, none of the Company or any Subsidiary will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Junior Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, defeasance, cancellation or termination of any Junior Indebtedness, except:

(i) regularly scheduled interest and principal payments as and when due in respect of any Junior Indebtedness, and any payments or prepayments in respect of Junior Indebtedness owed by any Loan Party to the Company or any Subsidiary, in each case other than payments in respect of Junior Indebtedness prohibited by the subordination provisions thereof;

(ii) refinancings of Junior Indebtedness to the extent permitted under Section 6.01;

(iii) the conversion of any Junior Indebtedness to Equity Interests (other than Disqualified Equity Interests) of the Company;

(iv) payments of secured Junior Indebtedness that becomes due as a result of the voluntary sale or transfer of the assets securing such Junior Indebtedness in transactions permitted hereunder;

(v) payments of or in respect of Junior Indebtedness made solely with Equity Interests in the Company (other than Disqualified Equity Interests); and

(vi) so long as no Default shall have occurred and be continuing, any payment of or in respect of Junior Indebtedness in an amount not in excess of the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such payment in reliance on this clause (vi).

SECTION 6.09. Transactions with Affiliates. None of the Company or any Subsidiary will sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that are at prices and on terms and conditions not less favorable to the Company or such Subsidiary than those that would prevail in arm's-length transactions with unrelated third parties, (b) transactions between or among the Guarantor Loan Parties not involving any other Affiliate, (c) any Restricted Payment permitted under Section 6.08, (d) issuances by the Company of Equity Interests, (e) compensation, expense reimbursement and indemnification of, and other employment arrangements with, directors, officers and employees of the Company or any Subsidiary entered in the ordinary course of business, (f) Dispositions between Subsidiaries of the Company or between the Company and any Subsidiary of the Company permitted under Section 6.05, (g) transactions required by and effected in accordance with the terms of the Brazil Transaction Documents, (h) payroll, travel and similar advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (i) loans or advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (j) transactions between or among non-Loan Parties not involving any other Affiliate, (k) in connection with any Permitted Receivables Facility and (l) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary permitted under Section 6.01.

SECTION 6.10. Restrictive Agreements. None of the Company or any Subsidiary will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that restricts or imposes any condition upon (a) the ability of the Company or any Subsidiary to create, incur or permit to exist any Lien upon any of its assets to secure any Obligations or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to its Equity Interests or to make or repay loans or advances to the Company or any Subsidiary or to Guarantee Indebtedness of the Company or any Subsidiary; provided that (i) the foregoing shall not apply to (A) restrictions and conditions imposed by Requirements of Law or by any Loan Document, (B) restrictions and conditions existing on the Effective Date identified on Schedule 6.10 (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), (C) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreement (including in the case of NCR Manaus, restrictions and conditions set forth in the Brazil Transaction Documents); provided that such restrictions and conditions apply only to such Subsidiary and to any Equity Interests in such Subsidiary, and (D) restrictions and conditions imposed by transactional agreements and documents (including organizational documents of Receivables Subsidiaries) governing Permitted Receivables Facilities and related Indebtedness permitted by clause (xi) of Section 6.01(a) and by Section 6.05(f); provided that any such restrictions and conditions (I) are customary and usual for such Permitted Receivables Facilities, as determined in good faith by the Company or such Subsidiary, (II) in the case of restrictions and conditions of the type referred to in clause (a) of the foregoing, apply only to assets of and Interests in such Receivables Subsidiary, and, in the case of any Intercompany Permitted Receivables Facility Note issued by such Receivables

Subsidiary that is held in whole or in part by the Company or any Subsidiary, permits the pledge of such Intercompany Permitted Receivables Facility Note to secure the Obligations, subject, if applicable, to the terms of any intercreditor agreement, subordination agreement or similar agreement with respect thereto that is reasonably acceptable to the parties thereto, (ii) clause (a) of the foregoing shall not apply to (A) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by clause (v) of Section 6.01(a) if such restrictions or conditions apply only to the assets securing such Indebtedness or (B) customary provisions in leases and other agreements restricting the assignment thereof, (iii) the foregoing shall not apply to (A) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary, or a business unit, division, product line or line of business or other assets in a transaction permitted by Section 6.05, that are applicable solely pending such sale; provided that such restrictions and conditions apply only to the Subsidiary, or the business unit, division, product line or line of business or other asset, that is to be sold and such sale is permitted hereunder, (B) restrictions and conditions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and otherwise permitted by clause (vi) of Section 6.01(a) (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition); provided that such restrictions and conditions apply only to such Subsidiary and were not incurred in contemplation of such acquisition, and (C) restrictions and conditions imposed by agreements relating to Indebtedness of Foreign Subsidiaries permitted under Section 6.01(a); provided that such restrictions and conditions apply only to Foreign Subsidiaries, and (iv) clause (b) of the foregoing shall not apply to restrictions and conditions imposed pursuant to Permitted Additional Indebtedness incurred pursuant to Section 6.01 that are not more restrictive than the terms hereof, as reasonably determined by the Company. Nothing in this paragraph shall be deemed to modify the requirements set forth in the definition of the term "Collateral and Guarantee Requirement" or the obligations of the Loan Parties under Sections 5.03, 5.04 or 5.12 or under the Security Documents.

SECTION 6.11. Amendment of Material Documents. None of the Company or any Subsidiary will amend, modify or waive any of its rights under (i) any agreement or instrument governing or evidencing any Junior Indebtedness, (ii) its certificate of incorporation, bylaws or other organizational documents, or (iii) any of the Brazil Transaction Documents, in each case to the extent such amendment, modification or waiver could reasonably be expected to be adverse in any material respect to the Lenders.

SECTION 6.12 Leverage Ratio. The Company will not permit the Leverage Ratio on the last day of any fiscal quarter of the Company to exceed the Permitted Leverage Ratio then in effect. The provisions of Section 6.12 are solely for the benefit of Revolving Lenders and, notwithstanding the provisions of Section 9.02, a Majority in Interest of the Revolving Lenders (excluding the Revolving Commitments and Revolving Exposure of Defaulting Lenders) may (i) amend or otherwise modify Section 6.12 or, solely for purposes of Section 6.12, the defined terms used, directly or indirectly, therein, or (ii) waive any

noncompliance with Section 6.12 or any Event of Default resulting from any such noncompliance, in each case without the consent of any other Lenders.

SECTION 6.13. Fiscal Year. The Company will not, and the Company will not permit any other Loan Party to, change its fiscal year to end on a date other than December 31.

## ARTICLE VII

### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five days;

(c) any representation or warranty made or deemed made by or on behalf of any Borrower or any Subsidiary in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other information furnished pursuant to any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) any Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03, 5.05 (with respect to the existence of the Borrowers), 5.11 or 5.14 or in Article VI; provided that any failure to comply with the Section 6.12 shall not constitute an Event of Default with respect to any Term Loans unless and until the Administrative Agent or a Majority in Interest of the Revolving Lenders shall have terminated the Revolving Commitments and/or declared the Revolving Loans then outstanding to be due and payable in accordance with this Article VII;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b) or (d) of this Article VII), and such failure shall continue unremedied for a period of 30

days after notice thereof from the Administrative Agent or any Lender to the Company (with a copy to the Administrative Agent in the case of any such notice from a Lender);

(f) any Borrower or any Subsidiary shall fail to make any payment (whether of principal, interest, termination payment or other payment obligation and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, after giving effect to any period of grace specified for such payment in the agreement or instrument governing such Material Indebtedness;

(g) (i) any event or condition occurs that results in any Material Indebtedness (other than with respect to any Hedging Agreements) becoming due and payable (or subject to compulsory repurchase or redemption) prior to its scheduled maturity or that enables or permits, in each case after the expiration of the grace period, if any, provided for therein, the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause such Material Indebtedness to become due and payable (or require a compulsory repurchase or redemption thereof) prior to its stated maturity or (ii) an “early termination date” (or equivalent event) under any Hedging Agreement constituting Material Indebtedness shall occur as a result of any event of default, “termination event” (or equivalent event) under such Hedging Agreement as to which the Company or any Subsidiary is the “defaulting party” or “affected party” (or equivalent term) as a result of which the Company or any Subsidiary is required to pay, or that enables the applicable counterparty, after the expiration of the grace period, if any, provided for therein, to require the Company or any Subsidiary to pay, the termination value in respect of such Hedging Agreement; provided that this clause (g) shall not apply to (A) any secured Indebtedness that becomes due as a result of a casualty event in respect of or the voluntary sale or transfer of the assets securing such Indebtedness or (B) any Indebtedness that becomes due as a result of a refinancing thereof permitted under Section 6.01;

(h) one or more ERISA Events shall have occurred that, in the opinion of the Required Lenders, could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Borrower or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect or (ii) the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or a Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or

petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(j) any Borrower or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation permitted by clause (v) of Section 6.03(a)), reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (i) of this Article VII, (iii) apply for or consent to the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors, or the board of directors (or similar governing body) of a Borrower or any Material Subsidiary (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to above in this clause (j) or clause (i) of this Article VII;

(k) any Borrower or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(l) one or more judgments for the payment of money in an aggregate amount in excess of (x) \$150,000,000 in the case of a Borrower or any Domestic Subsidiary or (y) \$150,000,000 in the case of other Foreign Subsidiaries (other than any such judgment covered by insurance (other than under a self-insurance program) to the extent a claim therefor has been made in writing and liability therefor has not been denied by the insurer) and in excess of amounts covered by indemnification obligations of third parties that shall have the financial capacity to pay such obligations (in the case of each such third party, to the extent a claim therefor has been made in writing and liability therefor has not been denied by such third party), shall be rendered against any Borrower, any Subsidiary or any combination thereof and the same shall remain unpaid or undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Borrower or any Subsidiary to enforce any such judgment;

(m) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any material Collateral, with the priority required by the applicable Security Document, except as a result of (i) a sale or transfer of the applicable Collateral in a transaction permitted under the Loan Documents, (ii) the Administrative Agent's failure to maintain possession of any stock certificate, promissory note or other instrument delivered to it

under the Collateral Agreement or to maintain in effect Uniform Commercial Code financing statements, unless such failure is attributable to any failure of a Loan Party to perform its obligations under any Loan Document or (iii) the occurrence of a Release Date and the exercise by the Company of its rights under Section 9.14(b);

(n) any Guarantee of a Loan Party purported to be created under any Loan Document shall cease to be, or shall be asserted by any Loan Party not to be, in full force and effect, except upon the consummation of any transaction permitted under this Agreement as a result of which the Subsidiary Loan Party providing such Guarantee ceases to be a Subsidiary; or

(o) a Change in Control;

then, and in every such event (other than an event with respect to any Borrower described in clause (i) or (j) of this Article VII), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part (but ratably as among the Classes of Loans and the Loans of each Class at the time outstanding), in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall become due and payable immediately and (iii) require the deposit of cash collateral in respect of LC Exposure as provided in Section 2.04(i), in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; and in the case of any event with respect to any Borrower described in clause (i) or (j) of this Article, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall immediately and automatically become due and payable and the deposit of such cash collateral in respect of LC Exposure shall immediately and automatically become due, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; provided, however, that upon the occurrence and during the continuance of any Event of Default attributable to a failure to comply with Section 6.12, (x) actions pursuant to clause (i) or (ii) may be taken by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) with respect to the Revolving Loans only (without the requirement for Required Lender action) or by the Administrative Agent at the direction of such Lenders, and (y) only if action has been taken in respect of such Event of Default under clause (i) or (ii) (with respect to the Revolving Loans) by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) or by the Administrative Agent at the direction of such Lenders, then such Event of Default will be deemed to be an Event of Default with respect to all Lenders hereunder and the remedies set forth above can be exercised in respect of all Loans.



In addition to any other rights and remedies granted to the Administrative Agent and the Lenders in the Loan Documents, the Administrative Agent on behalf of the Lenders may exercise all rights and remedies of a secured party under the Uniform Commercial Code or any other applicable law. Without limiting the generality of the foregoing, in connection with the exercise of rights under this Article VII, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Loan Party or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, or consent to the use by the Loan Parties of any cash collateral arising in respect of the Collateral on such terms as the Administrative Agent deems reasonable, and/or may forthwith sell, lease, assign give an option or options to purchase or otherwise dispose of and deliver, or acquire by credit bid on behalf of the Lenders, the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any Lender or elsewhere, upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery, all without assumption of any credit risk. The Administrative Agent or any Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Loan Party, which right or equity is hereby waived and released. Each Loan Party further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Loan Party's premises or elsewhere. The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to this Article VII, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any other way relating to the Collateral or the rights of the Administrative Agent and the Lenders hereunder, including attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect subject to Section 5.02 of the Collateral Agreement, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including Section 9-615(a)(3) of the Uniform Commercial Code, need the Administrative Agent account for the surplus, if any, to any Loan Party. To the extent permitted by applicable law, each Loan Party waives all claims, damages and demands it may acquire against the Administrative Agent or any Lender arising out of the exercise by them of any rights under this paragraph after the occurrence of an Event of Default. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. It is expressly noted that the provisions of this paragraph shall not apply to any Collateral which is subject to a Luxembourg law governed Foreign Pledge Agreement (the "Luxembourg Security"), and that only the provisions of the relevant Luxembourg Security shall apply to such Collateral.

#### ARTICLE VIII

### The Administrative Agent

Each of the Lenders and the Issuing Banks hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors to serve as administrative agent and collateral agent under the Loan Documents, and authorizes the Administrative Agent to take such actions and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto, including entering into any intercreditor agreement contemplated by Section 6.02(a)(xvii). In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders and the Issuing Banks hereby grants to the Administrative Agent any required powers of attorney to execute any Security Document governed by the laws of such jurisdiction on such Lender's or Issuing Bank's behalf.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender or an Issuing Bank as any other Lender or Issuing Bank and may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or to exercise any discretionary power, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion, could expose the Administrative Agent to liability or be contrary to any Loan Document or applicable law and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company, any Subsidiary or any other Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or in the absence of its own gross negligence or wilful misconduct, as determined by a court of competent jurisdiction by a final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Company, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any

duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's reliance on any Electronic Signature transmitted by telecopy, emailed pdf, or any other electronic means that reproduces an image of an actual executed signature page), or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not have any liability arising from any confirmation of the Revolving Exposure or the component amounts thereof.

The Administrative Agent shall be entitled to rely, and shall not incur any liability for relying, upon any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent also shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to be made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof), and may act upon any such statement prior to receipt of written confirmation thereof. The Administrative Agent may consult with legal counsel (who may be counsel for any Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any of and all its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of and all their duties and exercise their rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the terms of this paragraph, the Administrative Agent may resign at any time from its capacity as such. In connection with such resignation, the Administrative Agent shall give notice of its intent to resign to the Lenders, the Issuing Banks and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Company (which shall not be unreasonably withheld), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment

within 30 days after the retiring Administrative Agent gives notice of its intent to resign, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, with the consent of the Company (which shall not be unreasonably withheld), appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date, whereupon the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the removed Administrative Agent; provided that, in each case, (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed by the Company and such successor. Notwithstanding the foregoing, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Company, whereupon, on the date of effectiveness of such resignation stated in such notice, (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Security Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this paragraph (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (b) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Following the

effectiveness of the Administrative Agent's resignation or removal from its capacity as such, the provisions of this Article and Section 9.03, as well as any absence of fiduciary duty (and related exculpatory provisions), reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Each Lender and Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Effective Date, or delivering its signature page to an Assignment and Assumption or an Incremental Facility Agreement pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

No Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition. Each Secured Party hereby (or in the case of each Secured Party that is not a Credit Party, by its acceptance of the benefits of the Security Documents and the Collateral and of the Guarantees of the Obligations provided under the Loan Documents) irrevocably authorizes the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be

entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

In furtherance of the foregoing and not in limitation thereof, no Hedging Agreement, agreement with respect to cash management obligations, agreement with respect to Secured Performance Support Obligations or other agreement (other than the Loan Documents) the obligations under which constitute Obligations will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release

of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such Hedging Agreement, agreement with respect to Secured Performance Support Obligations or other agreement shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, (i) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(a)(v) and (ii) to agree to or enter into subordination or intercreditor agreements applicable to any Interests in any Receivables Subsidiary or any interest in Receivables subject to a Permitted Receivables Facility, in each case to the extent pledged under any Security Document to secure the Obligations. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

Notwithstanding anything herein to the contrary, neither the Arrangers nor any Person named on the cover page of this Agreement as a Joint Syndication Agent, Co-Documentation Agent, Joint Lead Arranger or Joint Bookrunner shall have any duties or obligations under this Agreement or any other Loan Document (except in its capacity, as applicable, as a Lender or an Issuing Bank), but all such Persons shall have the benefit of the indemnities provided for hereunder.

The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and none of the Borrowers or any other Loan Party shall have any rights as a third party beneficiary of any such provisions except as set forth herein with respect to the Company's consent rights to successor Administrative Agents.

Each Lender represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that at least one of the following is and will be true:

- (i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless (1) the immediately preceding clause (i) is true with respect to such Lender or (2) such Lender has provided another representation, warranty and covenant as provided in the immediately preceding clause (iv), such Lender further represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Syndication Agent and Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that none of the Administrative Agent or any of the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documentation Agents on the cover page hereof or their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by any Person under this Agreement, any Loan Document or any documents related hereto or thereto).

## ARTICLE IX

### Miscellaneous



SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(i) if to any Borrower or the Borrower Agent, to it at NCR Corporation, 3095 Satellite Boulevard, Duluth, Georgia 30096, Attention of Treasurer (Fax No. 678-808-5207) (email: John.Boudreau@ncr.com), with a copy to NCR Corporation, 3097 Satellite Boulevard, Duluth, Georgia, 30096, Attention: General Counsel/Notices, 2nd Floor (email: law.notices@ncr.com);

(ii) if to the Administrative Agent with respect to any Borrowing, Letter of Credit or LC Disbursement denominated in Euros or Sterling, to J.P. Morgan Europe Limited, Loans Agency 6th floor, 25 Bank Street, Canary Wharf, London E145JP, United Kingdom, Attention: Loans Agency, Fax No. +44 20 7777 2360 (email: loan\_and\_agency\_london@jpmorgan.com), with a copy to the Persons set forth in clause (iii) below;

(iii) if to the Administrative Agent with respect to any Borrowings, Letter of Credit or LC Disbursements denominated in Dollars, Euros or Sterling, to Loan and Agency Services Group, 500 Stanton Christiana Road, NCC5, Newark, Delaware 19713-2107, Attention: Mary Crews (Telephone No. 302-634-5758 and mary.crews@jpmorgan.com);

(iv) if to any Issuing Bank, to it at its address (or fax number) most recently specified by it in a notice delivered to the Administrative Agent and the Company (or, in the absence of any such notice, to the address (or fax number) set forth in the Administrative Questionnaire of the Lender that is serving as such Issuing Bank or is an Affiliate thereof); and

(v) if to any other Lender, to it at its address (or fax number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by fax shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); and notices delivered through electronic communications to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notices and other communications to the Lenders and Issuing Banks hereunder may be delivered or furnished by electronic communications (including email and

Internet and intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices under Article II to any Lender or Issuing Bank if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Any notices or other communications to the Administrative Agent or the Company may be delivered or furnished by electronic communications pursuant to procedures approved by the recipient thereof prior thereto; provided that approval of such procedures may be limited or rescinded by any such Person by notice to each other such Person. Notices delivered by electronic mail (or notice of electronic posting) shall be deemed received upon sending, if sent during business hours, or, otherwise upon opening of the next Business Day unless the sender receives a notice of non-delivery.

(c) Any party hereto may change its address, e-mail or fax number for notices and other communications hereunder by written notice to the other parties hereto.

(d) Each Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communication by posting such Communication on DebtDomain, Intralinks, Syndtrak or a similar electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available". Neither the Administrative Agent nor any of its Related Parties warrants, or shall be deemed to 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 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, or shall be deemed to be made, by the Administrative Agent or any of its Related Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties have any liability to any Borrower, any Lender, any Issuing 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 any Borrower's or the Administrative Agent's transmission of Communications through the Platform, except to the extent of direct or actual damages (and not any special, indirect, consequential or punitive damages) that are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of the Administrative Agent or its affiliates, officers or employees in performing the services hereunder.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section

9.02, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Without limiting the generality of the foregoing, the execution and delivery of this Agreement, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Sections 2.13, 2.20, 2.21 and 2.23 and in the Collateral Agreement, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Company, the Administrative Agent and the Required Lenders and, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders; provided that (i) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Company and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (ii) no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent or the waiver of any Default, Event of Default or mandatory prepayment shall not constitute an increase of any commitment), (B) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (other than as a result of (x) any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.12(c), (y) any amendment of any financial covenant herein (or any component definition) or (z) any extension of the date on which financial statements under Section 5.01(a) or 5.01(b) or a Compliance Certificate is required to be delivered, it being understood that a waiver of a Default or any such amendment or extension shall not constitute a reduction of interest for this purpose), or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled maturity date of any Loan, or the date of any scheduled payment of the principal amount of any Term Loan under Section 2.09, or the required date of reimbursement of any LC Disbursement, or any date for the payment of any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (D) except as provided in Sections 2.20 or 2.21, change Section 2.17(b) or 2.17(c) in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender, (E) except pursuant to an Incremental Facility Agreement or a Permitted Amendment to reflect a new Class of Loans or Commitments hereunder, change any of the provisions of this Section or the percentage set forth in the definition of the term "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be); provided that, with the consent of the Required Lenders or the Majority in Interest of a Class of Lenders, as the case may be, the provisions of this Section and

the definition of the term “Required Lenders” or “Majority in Interest” may be amended to include references to any new class of loans created under this Agreement (or to lenders extending such loans) on substantially the same basis as the corresponding references relating to the existing Classes of Loans or Lenders, (F) release Guarantees constituting all or substantially all the value of the Guarantees under the Collateral Agreement, or limit the liability of Loan Parties in respect of Guarantees constituting such value, or limit its liability in respect thereof, in each case without the written consent of each Lender, (G) release all or substantially all the Collateral from the Liens of the Security Documents, without the written consent of each Lender (except as expressly provided in Section 9.14 or the applicable Security Document (including any such release by the Administrative Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Security Documents), it being understood that an amendment or other modification of the type of obligations secured by the Security Documents shall not be deemed to be a release of the Collateral from the Liens of the Security Documents) and (H) change any provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of Collateral or payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders representing a Majority in Interest of each affected Class; provided, further, that (1) no such agreement shall amend, modify, extend or otherwise affect the rights or obligations of the Administrative Agent or any Issuing Bank without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be, (2) any amendment, waiver or other modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of a particular Class (but not the Lenders of any other Class), may be effected by an agreement or agreements in writing entered into by the Company and the requisite number or percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time, (3) any amendment, waiver or other modification of this Agreement with respect to the financial covenant set forth in Section 6.12 (including any breach thereof) and any definitions related thereto (but solely as such definitions are used for purposes of such covenant) may be effected by an agreement or agreements in writing entered into by Parent, the Borrowers and the Majority in Interest of the Revolving Lenders and (4) any amendment, waiver or other modification of Section 4.02 with respect to the funding of any Revolving Loan shall only require the consent of a Majority in Interest of the Revolving Lenders. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of (x) any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (A), (B), (C) or (D) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be affected by such amendment, waiver or other modification or (y) in the case of any vote requiring the approval of all Lenders or each affected Lender, any Lender that receives payment in full of the principal of and interest accrued on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, waiver or other modification becomes effective and whose Commitments terminate by the terms and upon the effectiveness of such amendment, waiver or other modification. Notwithstanding anything herein to the contrary, the Administrative Agent and the Company may, without the consent of any Secured Party or any other Person, amend this Agreement, the Collateral Agreement and any other Security Document

to add provisions with respect to “parallel debt” and other non-U.S. guarantee and collateral matters, including any authorizations, collateral trust arrangements or other granting of powers by the Lenders and the other Secured Parties in favor of the Administrative Agent, in each case if such amendment is necessary or desirable to create or perfect, or preserve the validity, legality, enforceability and perfection of, the Guarantees and Liens contemplated to be created pursuant to this Agreement (with the Company hereby agreeing to provide its agreement to any such amendment to this Agreement, the Collateral Agreement or any other Security Document reasonably requested by the Administrative Agent).

(c) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Company, the Required Lenders, the Administrative Agent and each lender providing any additional Revolving Commitment or term loan (A) to increase the Aggregate Revolving Commitments of the Lenders, (B) to add one or more additional tranches of term loans to this Agreement and to provide for the ratable sharing of the benefits of the Loan Documents with the other then outstanding Obligations in respect of the extensions of credit from time to time outstanding under any such additional tranche of term loans and (C) to include appropriately the lenders under any such additional tranche of term loans in any determination of Required Lenders or the determination of the requisite Lenders under any other provision of this Agreement.

(d) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of such Lender. Any amendment, waiver or other modification effected in accordance with this Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

(e) Notwithstanding anything to the contrary herein, in connection with any determination as to whether the requisite Lenders have (A) consented (or not consented) to any amendment or waiver of any provision of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to any Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, any Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to the Loans and/or Commitments (each, a “Net Short Lender”) shall have no right to vote any of its Loans and Commitments and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders (in each case unless otherwise agreed to by the Company). For purposes of determining whether a Lender has a “net short position” on any date of determination: (i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars, (ii) notional amounts in other currencies shall be converted to the Dollar Equivalent thereof by such Lender in a commercially

reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes the Company or any other Loan Party or any instrument issued or guaranteed by the Company or any other Loan Party shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the “ISDA CDS Definitions”) shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a “Deliverable Obligation” under the terms of such derivative transaction or (z) any of the Company or any other Loan Party (or any of their successors) is designated as a “Reference Entity” under the terms of such derivative transactions, and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions are functionally equivalent to a transaction that offers the Lender protection in respect of the Loans or the Commitments, or as to the credit quality of any of the Company or any other Loan Party (or any of their successors) other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by any of the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index. In connection with any such determination, each Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to the Company and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Company and the Administrative Agent shall be entitled to rely on each such representation and deemed representation). In no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is a Net Short Lender.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Managing Arranger and their Affiliates, including expenses incurred in connection with due diligence and the reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP, local counsel in any foreign jurisdiction, and any other counsel for any of the foregoing retained with the Company’s consent (such consent not to be unreasonably withheld, conditioned or delayed), in connection with the structuring, arrangement and syndication of the credit facilities provided for herein and any credit or similar facility refinancing or replacing, in whole or in part, any of the credit facilities provided for herein, including the preparation, execution and delivery

of the Engagement Letter and the Fee Letters, as well as the preparation, execution, delivery and administration of this Agreement, the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for any of the foregoing, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Administrative Agent (and any sub-agent thereof), the Arrangers, each Lender and Issuing Bank (each such Person, an “Indemnified Institution”), and each Related Party of any of the foregoing Persons (each Indemnified Institution and each such Person being called an “Indemnitee”), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the reasonable and documented or invoiced out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee (including reasonable fees, disbursements and other charges of one counsel for all Indemnities, taken as a whole, and, if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting in multiple jurisdictions) for all Indemnities taken as a whole (and, in the case of an actual or perceived conflict of interest, where an Indemnified Institution affected by such conflict informs the Company of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnified Institution)), incurred by or asserted against any Indemnitee arising out of or relating to, based upon, or as a result of (i) the structuring, arrangement and the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of the Engagement Letter, the Fee Letters, this Agreement, the other Loan Documents or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Engagement Letter, the Fee Letters, this Agreement or the other Loan Documents of their obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on, at, under or from any property currently or formerly owned, leased or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and whether initiated against or by any party to the Engagement Letter, any Fee Letter, this Agreement or any other Loan Document, any Affiliate of any of the foregoing or any third party (and regardless of whether any Indemnitee is a party thereto and regardless of whether such claim, litigation or proceeding is brought by a third party or by the Company or any of the Subsidiaries); provided that such indemnity shall not, (x) as to any

Indemnified Institution, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from (i) the bad faith, gross negligence or willful misconduct of, or material breach of this Agreement by, such Indemnified Institution or any of its Related Parties (as determined by a court of competent jurisdiction in a final and non-appealable decision) or (y) as to any other Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the bad faith, gross negligence or willful misconduct of, or a material breach of this agreement by, such Indemnitee (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(c) To the extent that the Company fails to pay any amount required to be paid by it under paragraph (a) or (b) of this Section to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any Issuing Bank in connection with such capacity. For purposes of this Section, a Lender's "pro rata share" shall be determined based upon its share of the sum of the total Revolving Exposures, outstanding Term Loans and unused Commitments at the time (or most recently outstanding and in effect).

(d) To the extent permitted by applicable law, the Company shall not assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet) in the absence of willful misconduct, bad faith or gross negligence (as determined by a court of competent jurisdiction in a final, non-appealable decision). To the extent permitted by applicable law, no party hereto shall assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee or any other party hereto or its Affiliates on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided, however, that nothing contained in this sentence will limit the indemnity and reimbursement obligations of the Company set forth in this Section.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter



of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) (it being understood that a merger, consolidation, amalgamation, reorganization, recapitalization or other similar transaction not otherwise prohibited hereunder shall not constitute an assignment or transfer by a Borrower) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section and, in the case of any Revolving Lender and in relation to any rights and obligations of any Revolving Lender toward a Dutch Borrower, to an assignee that is a Dutch Non-Public Lender. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section), the Arrangers and, to the extent expressly contemplated hereby, the sub-agents of the Administrative Agent and the Related Parties of any of the Administrative Agent, any Arranger, any Issuing Bank and any Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Notwithstanding anything to the contrary contained herein, neither any Borrower nor any Affiliate of any Borrower may acquire by assignment, participation or otherwise any right to or interest in any of the Commitments or Term Loans hereunder (and any such attempted acquisition shall be null and void). Subject to the conditions set forth in paragraph (b) (ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; provided that no consent of the Company shall be required (1) for an assignment of Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund, (2) for an assignment of Revolving Commitments and associated Revolving Loans to a Revolving Lender or an Affiliate of a Revolving Lender (other than an Approved Fund), (3) in connection with any assignment as part of the initial syndication of the Term Loans or (4) if an Event of Default has occurred and is continuing, for any other assignment; provided, further, that the Company shall be deemed to have consented to any such assignment of Term Loans unless it shall object thereto by written notice to the Administrative Agent within ten Business Days after the Company has received written notice thereof;

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) each Issuing Bank with outstanding Letters of Credit in excess of \$20,000,000, in the case of any assignment of all or a portion of a Revolving Commitment or any Lender's obligations in respect of its LC Exposure.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$500,000, in the case of assignments of Term Loans or Term Commitments, and \$5,000,000, in the case of assignments of Revolving Commitments, in each case unless each of the Company and the Administrative Agent otherwise consents; provided that no such consent of the Company shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause (B) shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans but not those in respect of a second Class;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with, unless waived by the Administrative Agent, a processing and recordation fee of \$3,500; provided that only one such processing and recordation fee shall be payable in the event of simultaneous assignments from any Lender or its Approved Funds to one or more other Approved Funds of such Lender (and if a Loan Party is required to be a party to such assignment it shall not (except in the case of an assignment pursuant to Section 2.18(b)) be required to pay such fee);

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable law, including Federal, State and foreign securities laws; and

(E) at the time of each assignment pursuant to this Section 9.04(b), the respective assignee shall provide to the relevant Loan Party and the Administrative Agent the appropriate forms and certificates as provided, and cooperate with the relevant Loan Party as required, under Section 2.16.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16, 2.22 and 9.03).

(iv) The Administrative Agent shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and records of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and, as to entries pertaining to it, any Issuing Bank or Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon receipt by the Administrative Agent of an Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder) and the processing and recordation fee referred to in this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that the Administrative Agent shall not be required to accept such Assignment and Assumption or so record the information contained therein if the Administrative Agent reasonably believes that such Assignment and Assumption lacks any written consent required by this Section or is otherwise not in proper form, it being acknowledged that the Administrative Agent shall have no duty or obligation (and shall incur no liability) with respect to obtaining (or confirming the receipt) of any such written consent or with respect to the form of (or any defect in) such Assignment and Assumption, any such duty and obligation being solely with the assigning Lender and the assignee. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph, and following such recording, unless otherwise determined by the Administrative Agent (such determination to be made in the sole discretion of the Administrative Agent, which determination may be conditioned on the consent of the assigning Lender and the assignee), shall be effective notwithstanding any defect in the Assignment and Assumption relating thereto. Each assigning Lender and the assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the Administrative Agent that all written consents required by this Section with respect

thereto (other than the consent of the Administrative Agent) have been obtained and that such Assignment and Assumption is otherwise duly completed and in proper form, and each assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the assigning Lender and the Administrative Agent that such assignee is an Eligible Assignee.

(vi) Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04(b), whether or not such assignment or transfer is reflected in the Register, shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(c)(i) Any Lender may, without the consent of any Borrower, the Administrative Agent or any Issuing Bank, sell participations to one or more Eligible Assignees (“Participants”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and Loans of any Class); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant or requires the approval of all the Lenders. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 2.22 (subject to the requirements and limitations therein, including the requirements under Sections 2.16(f), (g), (h) and (i) (it being understood that the documentation required under Sections 2.16(f), (g), (h) and (i) shall be delivered to the participating Lender and the participating Lender shall ensure that the terms of the participation require the Participant to cooperate as required under Section 2.16(g), (h) and (i))) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (x) agrees to be subject to the provisions of Sections 2.17 and 2.18 as if it were an assignee under paragraph (b) of this Section and (y) shall not be entitled to receive any greater payment under Section 2.14, 2.16 or 2.22, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company’s request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 2.18(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a nonfiduciary agent of each applicable Borrower, maintain a register on which it

enters the name and address of each Participant to which it has sold a participation and the principal amounts (and stated interest) of each such Participant's interest in the Loans or other rights and obligations of such Lender under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Loans or other rights and obligations under any this Agreement) except to the extent that such disclosure is necessary to establish that such Loan or other right or obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Arranger, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any LC Exposure is outstanding and so long as the Commitments have not expired or terminated. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement or any other Loan Document, in the event that, in connection with the refinancing or repayment in full of the credit facilities provided for herein, an Issuing Bank shall have provided to the Administrative Agent a written consent to the release of the Revolving Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Bank (whether as a result of the obligations of the applicable Borrower (and any other account party) in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Bank, or being supported by a letter of credit that names such Issuing Bank as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents, and the Revolving Lenders shall be deemed to have no participations in such Letter of Credit, and no obligations with respect thereto, under Section 2.04(d) or 2.04(f). The provisions of Sections 2.14, 2.15, 2.16, 2.17(e), 2.22 and 9.03 and Article VIII shall survive and

remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Signatures. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties hereto relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof, including the commitments of the Lenders and, if applicable, their Affiliates under the Engagement Letter and any commitment advices submitted by them (but do not supersede any other provisions of the Engagement Letter or the Fee Letters (or any separate letter agreements with respect to fees payable to the Administrative Agent or any Issuing Bank) that do not by the terms of such documents terminate upon the effectiveness of this Agreement, all of which provisions shall remain in full force and effect). Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Loan Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each an “Ancillary Document”) that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of ~~the~~an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words “execution”,<sup>22</sup> “signed”,<sup>22</sup> “signature”,<sup>22</sup> “delivery,” and words of like import in or relating to ~~any document to be signed in connection with~~ this Agreement ~~and the transactions contemplated hereby, any other Loan Document and/or any Ancillary Document~~ shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, ~~to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act;~~ provided that, notwithstanding anything contained herein to the contrary, the Administrative Agent shall not be under any obligation to agree to accept ~~electronic signatures~~Electronic Signatures in any form or in any format ~~unless expressly agreed to by the Administrative Agent~~without its prior written consent and pursuant to procedures approved by it; provided, further, without

limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of a Borrower or any other Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, each Loan Party 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 Lenders, the Borrowers and the Loan Parties, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative Agent's and/or any Lender's reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of a Borrower and/or any Loan Party to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and Issuing Bank, and each Affiliate of any of the foregoing, is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency and whether or not matured) or other amounts at any time held and other obligations (in whatever currency) at any time owing by such Lender or Issuing Bank, or by such an Affiliate, to or for the credit or the account of any Borrower against any of and all the

obligations then due of such Borrower now or hereafter existing under this Agreement held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement; provided that such setoff against obligations under this Agreement shall not apply in the case of amounts owed under any Receivables subject to a Permitted Receivables Facility by a Lender, Issuing Bank, or any of its Affiliates. The rights of each Lender and Issuing Bank, and each Affiliate of any of the foregoing, under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, Issuing Bank or Affiliate may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement (including this Section 9.09 (*Governing Law; Jurisdiction; Consent to Service of Process*)) shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any Federal court of the United States of America or any court of the State of New York, in each case, sitting in New York County, and any appellate court from any thereof, in any action, suit, proceedings, claims and counterclaims arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined, exclusively in such Federal court or, in the event such Federal court lacks subject matter jurisdiction, such state court. Each of the parties hereto agrees that a final judgment in any such action, suit, proceeding, claim or counterclaim shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Arranger, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or any of its properties in the courts of any jurisdiction.

(c) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action, proceeding, claim or counterclaim arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action, proceeding, claim or counterclaim in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(e) Each Foreign Borrower hereby irrevocably designates and appoints CT Corporation System, National Corporate Research, Ltd., Corporation Services Company or another nationally recognized service firm as its authorized agent, to accept and acknowledge on



its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in paragraph (b) of this Section in any Federal or New York State court sitting in the County of New York. Each Foreign Borrower represents and warrants that such agent has agreed in writing to accept such appointment and that a true copy of such designation and acceptance has been delivered to the Administrative Agent. If such agent shall cease so to act, each Foreign Borrower covenants and agrees to designate irrevocably and appoint without delay another such agent satisfactory to the Administrative Agent and to deliver promptly to the Administrative Agent evidence in writing of such other agent's acceptance of such appointment.

**SECTION 9.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Arrangers, the Lenders and the Issuing Banks agrees to maintain the confidentiality of, and not disclose, the Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other agents and advisors, it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential, (b) to the extent requested by any governmental or regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section 9.12 and in accordance with the standard processes of the Administrative Agent, the Arrangers or any Lender, as applicable, or customary market standards for the dissemination of such type of information (which shall be deemed to include those required to be made in order to obtain access to information posted on IntraLinks, SyndTrak,

Debt domain or any similar website), in each case, that requires “click through” or other affirmative consent and acknowledgement to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (in each case, that is an Eligible Assignee) or (ii) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Company or any Subsidiary and its obligations, (g) with the consent of the Company, (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.12 or as a result of any improper disclosure by the Administrative Agent, any Arranger or any Lender or any of their respective Affiliates or their and their Affiliates’ respective Related Parties or (ii) becomes available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis from a source other than the Company and that is not known by the Administrative Agent, any Arranger, any Lender or any Affiliate of any of the foregoing to have provided, and that none of the Administrative Agent, Arrangers, Lenders or any of the Affiliates of the foregoing has reasonable grounds to believe that such source has provided, such Information in a breach of any confidentiality obligation to the Borrower. For purposes of this Section 9.12, “Information” means all information received from the Company relating to the Company or any Subsidiary or their businesses, other than (A) any such information that is available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis prior to disclosure by the Company and (B) information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Company after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the “Charges”), shall exceed the maximum lawful rate (the “Maximum Rate”) that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate, and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section 9.13 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14. Release of Liens and Guarantees. (a) A Subsidiary Loan Party shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by such Subsidiary Loan Party

shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Loan Party ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. Upon any sale or other transfer by any Loan Party (other than to the Company or any Domestic Subsidiary that is not a CFC Holdco) of any Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any Collateral pursuant to Section 9.02, the security interests in such Collateral created by the Security Documents shall be automatically released.

(b) On the Release Date, the Liens on the Collateral under the Security Documents will automatically terminate and be deemed to have been released (it being understood that no such termination or release will modify or otherwise affect any Guarantee provided by any Loan Party under the Collateral Agreement).

(c) In connection with any termination or release pursuant to this Section, the Administrative Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(d) The Administrative Agent shall be deemed to have automatically released any Lien on any property granted to or held by it under the Collateral Agreement or any other Loan Document that is sold or distributed or to be sold or distributed as part of or in connection with any sale permitted hereunder and under each other Loan Document. The Administrative Agent shall, at the expense of the applicable Loan Party, execute and deliver to such Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of collateral from the assignment and security interest granted under the Collateral Agreement or other Loan Document.

(e) On the Effective Date, the Administrative Agent will release Radiant Payment Services, LLC from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by Radiant Payment Services, LLC shall be released. The Administrative Agent shall execute and deliver to Radiant Payment Services, LLC, at the Company's expense, all documents that the Company shall reasonably request to evidence the release of Radiant Payment Services, LLC.

SECTION 9.15. Satisfaction of Collateral and Guarantee Requirement. If the Company fails to maintain its Investment Grade Rating at any time following the Investment Grade Date, then the Company shall deliver written notice thereof to the Administrative Agent. As promptly as practicable following the Non-Investment Grade Date, and in any event no later than 30 days thereafter (such date, the "Delivery Date"), the Company shall cause the Collateral and Guarantee Requirement to be satisfied and shall deliver to the Administrative Agent a completed Perfection Certificate dated the Delivery Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company, the

Foreign Borrowers and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered at least five Business Days prior to the Delivery Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will on the Delivery Date be released; provided that if, notwithstanding the use by the Company of commercially reasonable efforts without undue burden or expense to cause the Collateral and Guarantee Requirement to be satisfied on the Delivery Date, the requirements thereof are not fully satisfied as of the Delivery Date, the satisfaction of such requirements shall not be a condition to the availability of any Loans hereunder so long as the Company has agreed in a written instrument to satisfy any remaining requirements by a date agreed to by the Administrative Agent (it being understood that any failure to satisfy the Collateral and Guarantee Requirement by such later date will constitute, except to the extent additional time is agreed to by the Administrative Agent in accordance with the definition of “Collateral and Guarantee Requirement”, an Event of Default under paragraph (d) of Article VII).

SECTION 9.16. Certain Notices. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

SECTION 9.17. No Fiduciary Relationship. The Company, on behalf of itself and its subsidiaries, agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Company, the Subsidiaries and their Affiliates, on the one hand, and the Administrative Agent, the Lenders, the Issuing Banks and their Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Lenders, the Issuing Banks or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, the Arrangers, the Lenders, the Issuing Banks and their Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Company and its Affiliates, and none of the Administrative Agent, the Arrangers, the Lenders, the Issuing Banks or their Affiliates has any obligation to disclose any of such interests to the Company or any of its Affiliates.

SECTION 9.18. Non-Public Information. (a) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by the Company or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain MNPI. Each Lender represents to the Company and the Administrative Agent that (i) it has developed compliance procedures regarding the use of MNPI and that it will handle MNPI in accordance with such procedures and applicable law, including Federal, state and foreign securities laws, and (ii) it has

identified in its Administrative Questionnaire a credit contact who may receive information that may contain MNPI in accordance with its compliance procedures and applicable law, including Federal, state and foreign securities laws.

(b) The Company, and each Lender acknowledge that, if information furnished by the Company pursuant to or in connection with this Agreement is being distributed by the Administrative Agent through the Platform, (i) the Administrative Agent may post any information that the Company has indicated as containing MNPI solely on that portion of the Platform as is designated for Private Side Lender Representatives and (ii) if the Company has not indicated whether any information furnished by it pursuant to or in connection with this Agreement contains MNPI, the Administrative Agent reserves the right to post such information solely on that portion of the Platform as is designated for Private Side Lender Representatives. The Company agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Company that is suitable to be made available to Public Side Lender Representatives, and the Administrative Agent shall be entitled to rely on any such designation by the Company without liability or responsibility for the independent verification thereof.

SECTION 9.19 Conditional Non-Petition Covenant. Each of the Administrative Agent and the Lenders agrees that in the event it or any other Secured Party acquires any Interests in any Receivables Subsidiary (as creditor or otherwise) in connection with the exercise of remedies against the Collateral or otherwise in connection with the enforcement, collection or payment of the Obligations hereunder or under any Security Document, it shall not (including by acting on behalf of any such Secured Party or the Secured Parties generally), until one year and one day after the Third Party Interests of such Receivables Subsidiary have been satisfied in full, institute against such Receivables Subsidiary, or join in any institution against such Receivables Subsidiary of, any bankruptcy, reorganization, arrangement, insolvency, receivership, winding-up or liquidation proceedings or any similar proceedings under any bankruptcy or insolvency laws of any jurisdiction; provided that the foregoing shall not limit the rights of the Administrative Agent or any Lender to file any claim in or otherwise take any action with respect to any such proceeding that was instituted by another Person that is not one of its Affiliates against a Receivables Subsidiary. The foregoing agreement shall survive any termination of this Agreement.

SECTION 9.20. Acknowledgement and Consent to Bail-In. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among ~~the any such parties hereto~~, each party hereto acknowledges ~~and accepts~~ that any liability of any ~~party hereto to another party hereto~~ Affected Financial Institution arising under ~~or in connection with the any~~ Loan ~~Documents~~ Document may be subject to ~~Bail-In Action by~~ the Write-Down and Conversion Powers of the ~~relevant~~ applicable Resolution Authority and ~~agrees and consents to, and~~ acknowledges and ~~accepts~~ agrees to be bound by ~~the effect of:~~

(a) the application of any Write-Down and Conversion Powers by an 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) (a) the effects of~~ any Bail-In Action ~~in relation to~~ on any such liability, including ~~(without limitation), if applicable:~~

(i) a reduction in full or in part, ~~in the principal amount or outstanding amount due (including any accrued but unpaid interest) in respect~~ or cancellation of any such liability;

(ii) a conversion of all, or ~~part~~ a portion of, ~~any~~ such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to, it or otherwise conferred on it, ~~and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document;~~ ~~and/or~~

(iii) ~~a cancellation of any such liability; and~~ 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.

~~(b) a variation of any term of any Loan Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.~~

SECTION 9.21. Judgment Currency. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in dollars into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction dollars could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party hereto in respect of any sum due to any other party hereto or any holder of the obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than the currency in which such sum is stated to be due hereunder (the "Agreement Currency"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The obligations of the parties contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

SECTION 9.22. Amendment and Restatement of Existing Credit Agreement. (a) This Agreement shall amend and restate the Existing Credit Agreement in its entirety, and all of the terms and provisions hereof shall supersede the terms and conditions thereof.

(b) It is understood and agreed that any notice of termination of commitments under the Existing Credit Agreement is given only with respect to the commitments under the Existing Credit Agreement, and not with respect to the Commitments hereunder, and as of the Effective Date, each Lender identified on Schedule 2.01 has in effect a Commitment in the amount set forth opposite the name of such Lender on such Schedule. Each Lender that is also a lender under the Existing Credit Agreement hereby consents and agrees that no prior notice shall be required under the Existing Credit Agreement with respect to (i) termination of commitments under the Existing Credit Agreement or (ii) prepayment of loans under the Existing Credit Agreement; provided that notice thereof is given on or prior to the Effective Date. The parties hereto hereby agree that no amount shall be payable under Section 2.16 of the Existing Credit Agreement solely as a result of the repayment of any outstanding loan under the Existing Credit Agreement on the Effective Date.

SECTION 9.23. Acknowledgment Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States).

(b) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

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THIRD AMENDMENT dated as of January 22, 2021 (this "Amendment") to the CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019 (as amended and in effect prior to the effectiveness of this Amendment, the "Credit Agreement"), among NCR CORPORATION, a Maryland corporation (the "Borrower"), the LENDERS party thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Administrative Agent").

WHEREAS, the Borrower and the Lenders whose signatures appear below, constituting all of the Revolving Lenders and the Required Lenders (collectively, the "Consenting Lenders") have determined that, due to an administrative error, the current terms of the Credit Agreement do not reflect the intention of the parties with respect to the subject matter of this Amendment; and

WHEREAS, the Borrower has requested that the Lenders amend the Credit Agreement in the manner set forth below, and the Consenting Lenders are willing to amend the Credit Agreement, on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement (as amended hereby).

SECTION 2. Amendments to the Credit Agreement. Effective as of the Third Amendment Effective Date (as defined below), the Credit Agreement is hereby amended as follows:

(a) the definition of "Disqualified Equity Interests" in Section 1.01 of the Credit Agreement is amended and restated as follows:

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;



(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Company or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date 180 days after the latest Maturity Date (determined as of the date of issuance thereof or, in the case of any such Equity Interests outstanding on the Effective Date, the Effective Date); provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an “asset sale” or a “change of control” (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable, the cancellation or expiration of all Letters of Credit and the termination or expiration of the Commitments, (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability and (iii) the Existing Preferred shall not constitute Disqualified Equity Interests.”

(b) the definition of “Existing Preferred” in Section 1.01 of the Credit Agreement is amended and restated as follows:

“Existing Preferred” means the Company’s Series A Convertible Preferred Stock, par value \$0.01, outstanding on the Effective Date.”

SECTION 3. Representations and Warranties. To induce the other parties hereto to enter into this Amendment, the Borrower hereby represents and warrants to the Administrative Agent and the Consenting Lenders that:

(a) This Amendment has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights generally, and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

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(b) On the Third Amendment Effective Date, and after giving effect to this Amendment, the representations and warranties of each Loan Party set forth in the Credit Agreement and in each other Loan Document are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case, as though made on and as of the Third Amendment Effective Date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty is so true and correct on and as of such prior date.

(c) On and as of the Third Amendment Effective Date, no Default or Event of Default has occurred and is continuing.

SECTION 4. Effectiveness. This Amendment shall become effective on the date (the “Third Amendment Effective Date”) on which the Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Amendment) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Borrower and Lenders constituting all of the Revolving Lenders and the Required Lenders. The Administrative Agent shall notify the Borrower and the Lenders of the Third Amendment Effective Date, and such notice shall be conclusive and binding.

SECTION 5. Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Amendment and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of counsel to the Administrative Agent.

SECTION 6. Effect of Amendment. (a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Credit Agreement or any of the other Loan Documents, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle the Borrower to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents in similar or different circumstances.

(b) Notwithstanding anything to the contrary in the Credit Agreement, for purposes of determining the Applicable Rate under the Credit Agreement the Leverage Ratio for the four fiscal quarter period ended September 30, 2020 shall be recalculated after giving effect to this Amendment and a revised Compliance Certificate for such period shall be delivered by the Company to the Administrative Agent and each of the Revolving Lenders on the Third Amendment Effective Date (the “Revised Compliance Certificate”). Solely for the period from and after the Third Amendment Effective Date (but not for any day prior thereto) and until the next date on which the Applicable Rate is determined in accordance with the definition thereof in the Credit Agreement, the Applicable Rate shall be determined by reference to the Revised Compliance Certificate.

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(c) On and after the Third Amendment Effective Date, any reference to the Credit Agreement in any Loan Document shall be deemed to be a reference to the Credit Agreement as amended by this Amendment.

(d) This Amendment shall constitute a Loan Document for all purposes of the Credit Agreement and each other Loan Document.

**SECTION 7. Applicable Law. THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 8. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amendment. The words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to this Amendment shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. “Electronic Signatures” means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

SECTION 9. Headings. The Section headings used herein are for convenience of reference only, are not part of this Amendment and are not to affect the construction of, or to be taken into consideration in interpreting, this Amendment.

SECTION 10. Incorporation by Reference. The submission to jurisdiction, service of process, venue, judgment currency, waiver of immunity, waiver of jury trial and electronic signature provisions set forth in the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day and year first above written.

**NCR CORPORATION,**

by

/s/ Michael Nelson

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Name: Michael Nelson

Title: Treasurer

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[Signature Page to Third Amendment]

[[5565172]]

JPMORGAN CHASE BANK, N.A.,  
as Lender and as Administrative Agent,  
by

/s/ Matthew Cheung

Name: Matthew Cheung

Title: Vice President

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[Signature Page to Third Amendment]

[[5565172]]







Name of Lender: TRUIST BANK, as successor by merger to SUNTRUST BANK,

by

/s/ David Bennett

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Name: David Bennett

Title: Director

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by

/s/ Bryon Korutz

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Name: Bryon Korutz

Title: Associate Director

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Name of Lender: TRUIST BANK, formerly known as BRANCH BANKING & TRUST COMPANY

by

/s/ David Bennett

Name: David Bennett

Title: Director

Name of Lender: HSBC Bank USA, National Association

by

/s/ Chris Burns

Name: Chris Burns

Title: Senior Vice President

For any Lender requiring a second signature block:

by

Name:

Title:

Name of Lender: KeyBank National Association

by

/s/ Karson Malecky

Name: Karson Malecky

Title: Vice President

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For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: THE NORTHERN TRUST COMPANY

by

/s/ Kimberly A. Crotty

Name: Kimberly A. Crotty

Title: Vice President

Name of Lender: STANDARD CHARTERED BANK

by

/s/ James Beck

Name: James Beck

Title: Associate Director

Name of Lender: People's United Bank, N.A.

by

/s/ Darci Buchanan

Name: Darci Buchanan

Title: Senior Vice President

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

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Name of Lender: Synovus Bank

by

/s/ Chandra Cockrell

Name: Chandra Cockrell

Title: Corporate Banker

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INCREMENTAL REVOLVING FACILITY AGREEMENT dated as of February 16, 2021 (this “Agreement”), among NCR CORPORATION, a Maryland corporation (the “Company”), the FOREIGN BORROWERS listed on the signature pages hereto, the SUBSIDIARY LOAN PARTIES listed on the signature pages hereto, the INCREMENTAL REVOLVING LENDERS (as defined below) party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent (the “Administrative Agent”), relating to the CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, and as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, (III) that certain Third Amendment, dated as of January 22, 2021, and (IV) that certain Fourth Amendment, dated as of February 4, 2021, and as otherwise amended and in effect prior to the effectiveness of this Agreement, the “Credit Agreement”; the Credit Agreement, as modified by this Agreement and as amended, restated, supplemented or otherwise modified from time to time, the “Amended Credit Agreement”), among the Company, the Foreign Borrowers from time to time party thereto, the Lenders from time to time party thereto and the Administrative Agent.

WHEREAS, reference is hereby made to that certain Acquisition Agreement, dated as of January 25, 2021 (as amended and in effect prior to the effectiveness of this Agreement, together with all schedules, exhibits and other attachments thereto, the “Project Comet Acquisition Agreement”), by and among Cardtronics plc, a public limited company incorporated in England and Wales (registered no. 10057418) (“Comet”), the Company and, solely for purposes of Section 8.2, Section 8.4 and Article IX thereof, Cardtronics USA, Inc., a Delaware corporation and a wholly owned subsidiary of Comet, to effect the acquisition by the Company of Comet (the “Project Comet Acquisition”).

WHEREAS, in connection with the Project Comet Acquisition, the Company has requested that, pursuant to and in accordance with Section 2.20 of the Amended Credit Agreement, the Incremental Revolving Lenders provide Incremental Revolving Commitments (as defined below) on the Closing Date (as defined below) to the Company in an aggregate principal amount equal to \$1,100,000,000 (the “Incremental Revolving Facility”), subject to the terms and conditions set forth herein.

WHEREAS, each Person party hereto whose name is set forth on Schedule I hereto under the heading “Incremental Revolving Lenders” (each such Person, an “Incremental Revolving Lender”) has agreed to (a) provide Incremental Revolving Commitments to the Company on the Closing Date in the amount set forth opposite such

Incremental Revolving Lender's name on such Schedule I (such commitments, the "Incremental Revolving Commitments") and (b) make Revolving Loans to the Borrowers and to participate in Letters of Credit from time to time during the Revolving Availability Period in an aggregate principal amount that will not result in such Incremental Revolving Lender's Revolving Exposure exceeding such Incremental Revolving Lender's Revolving Commitment (including its Incremental Revolving Commitment) or the Aggregate Revolving Exposure exceeding the Aggregate Revolving Commitment (including the Incremental Revolving Commitments), in each case subject to the terms and conditions set forth herein and in the Amended Credit Agreement.

WHEREAS, this Agreement is an Incremental Facility Agreement entered into pursuant to Section 2.21 of the Credit Agreement to provide for the Incremental Revolving Commitments and the Revolving Loans made pursuant thereto referred to above.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein (including in the preamble and the recitals hereto) shall have the meanings assigned to such terms in the Credit Agreement.

SECTION 2. Incremental Revolving Facility. (a) Subject to the terms and conditions set forth herein, each Incremental Revolving Lender agrees, severally and not jointly, to make available to the Borrowers, on the Closing Date, Incremental Revolving Commitments in a principal amount equal to the Incremental Revolving Commitment of such Incremental Revolving Lender.

(b) Except as otherwise set forth herein relating to the Applicable Rate and the Revolving Maturity Date, the Incremental Revolving Commitments and the Revolving Loans and other extensions of credit made thereunder shall have the terms applicable to the Revolving Commitments in effect on the date hereof and the Revolving Loans and other extensions of credit made thereunder, respectively. Effective as of the Effective Date (as defined below), the Incremental Revolving Lenders shall be (or in the case of any existing Revolving Lenders, shall continue to be) "Revolving Lenders" and "Lenders", the Incremental Revolving Commitments shall be "Revolving Commitments" and the loans made thereunder shall be "Revolving Loans" and "Loans", in each case for all purposes of the Amended Credit Agreement and the other Loan Documents.

(c) The Administrative Agent and each Issuing Bank hereby consents to this Agreement and confirms that each Incremental Revolving Lender not already a Lender under the Credit Agreement immediately prior to the effectiveness of this Agreement is acceptable to it.

(d) Each Incremental Revolving Lender, by delivering its signature page to this Agreement on the date hereof, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or any Class of Lenders on the date hereof.

SECTION 3. Transactions to Occur on the Closing Date. (a) Immediately prior to the effectiveness of the Incremental Revolving Commitments on the Closing Date (and subject to the effectiveness of the Incremental Revolving Commitments), all Revolving Commitments under the Credit Agreement shall terminate in full. Each Incremental Revolving Lender, in its capacity as a Revolving Lender under the Credit Agreement, hereby waives the requirement for notice of such termination.

(b) Upon the effectiveness of the Incremental Revolving Commitments, (i) each Revolving Lender immediately prior to such effectiveness will automatically and without further act be deemed to have assigned to each Incremental Revolving Lender, and each such Incremental Revolving Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Lender's participations under the Amended Credit Agreement in outstanding Letters of Credit (if any) such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding participations under the Amended Credit Agreement in Letters of Credit held by each Revolving Lender (including each such Incremental Revolving Lender) will equal such Lender's Applicable Percentage and (ii) if, on the Closing Date, there are any Revolving Loans outstanding, such Revolving Loans shall, upon the effectiveness of the Incremental Revolving Commitments, be prepaid from the proceeds of Revolving Loans made under the Amended Credit Agreement in respect of the Incremental Revolving Commitments, which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 2.15 of the Credit Agreement. Each Revolving Lender immediately prior to the effectiveness of the Incremental Revolving Commitments that is not an Incremental Revolving Lender shall receive payment in respect of all outstanding Revolving Loans made by such Revolving Lender, which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by such Revolving Lender in accordance with Section 2.15 of the Credit Agreement.

(c) The transactions contemplated by this Agreement shall be deemed to have occurred immediately prior to the incurrence of any other Incremental Commitments that become effective on the Closing Date.

SECTION 4. Amendments to the Credit Agreement. Each Incremental Revolving Lender, by delivering its signature page to this Agreement on the date hereof, shall be deemed to have authorized the Company and the Administrative Agent, in consultation with BofA Securities, Inc. (in such capacity, the "Incremental Revolving Facility Left Lead Arranger") but without the consent of any Lender (including any

Incremental Revolving Lender), to effect such amendments to the Credit Agreement (in the form of an amendment and restatement of the Credit Agreement or a “conformed copy” thereof) as may be necessary or appropriate, in the reasonable discretion of the Company and the Administrative Agent, to give effect to the Incremental Revolving Commitments on the terms and conditions set forth herein and in the Summary of Principal Terms and Conditions for the Incremental Revolving Commitments attached as Exhibit I hereto, including, without limitation, by amending the Credit Agreement to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken-text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit II hereto.

SECTION 5. Representations and Warranties. To induce the other parties hereto to enter into this Agreement, the Company and each other Loan Party party hereto hereby represents and warrants to the Administrative Agent and the Incremental Revolving Lenders as follows:

(a) On and as of each of the Effective Date (or, in the case of NCR Nederland B.V., the Joinder Date (as defined below)) and the Closing Date, this Agreement has been duly executed and delivered by each Loan Party party hereto and constitutes a legal, valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) On the Closing Date, and after giving effect to this Agreement and the transactions contemplated hereby to occur on such date, the representations and warranties of each Loan Party set forth in the Amended Credit Agreement and in each other Loan Document are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case as though made on and as of the Closing Date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty is so true and correct on and as of such prior date.

(c) None of the Security Documents in effect on the Effective Date will be rendered invalid, non-binding or unenforceable against any Loan Party party thereto as a result of this Agreement. The guarantees created under such Security Documents will continue to guarantee the Obligations (including the Obligations attributable to the Incremental Revolving Commitments and extensions of credit in connection therewith) to the same extent as they guaranteed the Obligations immediately prior to the Effective Date. The Liens created under such Security Documents will continue to secure the Obligations (including such incremental Obligations), and will continue to be perfected, in each case, to the same extent as they secured the Obligations or were perfected immediately prior to the Effective Date, and no further document, instrument or

agreement, or any recording, filing, re-recording or re-filing of any such Security Document or any notice of a Lien created thereby, is required, as a result of this Agreement in order to maintain the effectiveness, perfection and priority of such Liens or to maintain the validity, binding effect or enforceability of such guarantees of the Obligations.

(d) On and as of the Closing Date, no Default or Event of Default has occurred and is continuing, both immediately prior to and immediately after giving effect to the incurrence of the Incremental Revolving Commitments.

(e) After giving effect to the establishment on the Closing Date of the Incremental Revolving Commitments (and based on the assumption that borrowings are effected in the full amount of the Incremental Revolving Commitments), (i) the Company will be in compliance on a Pro Forma Basis with the covenant contained in Section 6.12 of the Amended Credit Agreement, recomputed as of the last day of the most-recently ended fiscal quarter of the Company for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) of the Credit Agreement, and (ii) the Secured Leverage Ratio, computed on a Pro Forma Basis as of the last day of the most recently ended fiscal quarter of the Company for which financial statements have been delivered pursuant to Section 5.01(a) or (b), will not exceed 3.00 to 1.00.

SECTION 6. Conditions to Effective Date. This Agreement shall become effective on and as of the date on which the Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Agreement) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Company, each Foreign Borrower, each Subsidiary Loan Party and each Incremental Revolving Lender (such date, the "Effective Date"). The Administrative Agent shall notify the Company and the Incremental Revolving Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 7. Conditions to Closing Date. The date on which each of the following conditions precedent is satisfied shall be the "Closing Date" and the Incremental Revolving Commitments shall become effective as of such date subject to the satisfaction of such conditions:

(a) The Project Comet Acquisition shall have been consummated, or substantially simultaneously with the effectiveness of the Incremental Revolving Commitments on the Closing Date shall be consummated.

(b) The conditions set forth in paragraphs (a) and (b) of Section 4.02 of the Amended Credit Agreement shall be satisfied on and as of the Closing Date, and the Administrative Agent shall have received a certificate, dated the Closing Date and signed by a Financial Officer of the Company, confirming compliance with (i) such conditions

and (ii) the representations and warranties contained in Section 5 above, together with reasonably detailed calculations demonstrating compliance with Section 5(e) above.

(c) The Administrative Agent and the Incremental Revolving Lenders shall have received a solvency certificate substantially in the form attached as Exhibit H to the Credit Agreement from the chief financial officer, principal accounting officer, treasurer, controller or other officer with equivalent responsibility of the Company.

(d) The Administrative Agent and the Incremental Revolving Lenders shall have received a favorable written opinion (addressed to the Administrative Agent and the Incremental Revolving Lenders and dated the Closing Date) of each of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, and (ii) local counsel for the Company in each jurisdiction in which any Loan Party party hereto is organized, and the laws of which are not covered by the opinion letter referred to in clause (i) above, in each case in form and substance reasonably satisfactory to the Administrative Agent.

(e) The Incremental Revolving Lenders shall have received a certificate from a Financial Officer of the Company certifying satisfaction of the condition precedent set forth in Section 7(a).

(f) The Administrative Agent and the Incremental Revolving Lenders shall have received such board resolutions, secretary's certificates, officer's certificates and other documents as the Administrative Agent may reasonably request relating to the organization, existence and good standing of each Loan Party party hereto, the authorization of the transactions contemplated hereby and any other legal matters relating to the Loan Parties, the Loan Documents or the transactions contemplated hereby, all in form and substance reasonably satisfactory to the Administrative Agent.

(g) All documents and instruments required to create and perfect the Administrative Agent's security interests in the Collateral securing the Incremental Revolving Facility shall have been executed and delivered by the Loan Parties and, if applicable, be in proper form for filing (or arrangements reasonably satisfactory to the Administrative Agent shall have been made for the execution, delivery and filing of such documents and instruments).

(h) Each of the Loan Parties party hereto shall have provided all documentation and other information to the Incremental Revolving Lenders that is reasonably requested by the Incremental Revolving Lenders no later than ten Business Days prior to the Closing Date to comply with applicable "know-your-customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and the Beneficial Ownership Regulation, in each case, at least three Business Days prior to the Closing Date.

(i) The Administrative Agent shall have received, in immediately available funds, reimbursement or payment of all out-of-pocket expenses required to be

reimbursed or paid by the Company under the Amended Credit Agreement or under Section 9 below.

(j) The prepayments of Revolving Loans and payment of breakage costs relating thereto as contemplated by Section 3 hereof shall have been made and the Revolving Commitments outstanding under the Credit Agreement immediately prior to the Closing Agreement shall have been terminated in full, in each case, substantially simultaneously with the effectiveness of this Agreement.

The Administrative Agent shall notify the Company and the Lenders (including the Incremental Revolving Lenders) of the Closing Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, in the event that the foregoing conditions shall not have been satisfied on or before the Expiration Date (as defined below), this Agreement shall terminate and no transaction that is subject to the occurrence of the Closing Date (including the effectiveness of the Incremental Revolving Commitments) shall become effective. “Expiration Date” means the earlier of (a) the date that is five Business Days after the End Date (as defined in the Project Comet Acquisition Agreement as in effect on January 25, 2021 and as such End Date may be extended in accordance with the terms of the Project Comet Acquisition Agreement as in effect on January 25, 2021) and (b) the termination of the Project Comet Acquisition Agreement in accordance with the terms thereof prior to closing of the Project Comet Acquisition.

SECTION 8. Fees. The Company agrees to pay to the Administrative Agent, for the ratable benefit of each Incremental Revolving Lender set forth on Schedule II hereto, a non-refundable extension fee (collectively, the “Incremental Revolving Extension Fees”) in an amount as described on Schedule II hereto. The Incremental Revolving Extension Fees, in each case, will be fully earned and due and payable on the Closing Date.

SECTION 9. Expenses. The Company agrees to reimburse the Administrative Agent and the Incremental Revolving Facility Left Lead Arranger for their respective reasonable out-of-pocket expenses in connection with this Agreement and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP.

SECTION 10. Effect of this Agreement. (a) Except as expressly set forth herein, this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Credit Agreement or any of the other Loan Documents, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any

of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents in similar or different circumstances.

(b) On and after the Effective Date, any reference to the Credit Agreement in any Loan Document shall be deemed to be a reference to the Credit Agreement as modified by this Agreement.

(c) This Agreement shall constitute a Loan Document and an Incremental Facility Agreement for all purposes of the Amended Credit Agreement and each other Loan Document.

SECTION 11. Reaffirmation; Further Assurances. The Company and each other Loan Party party hereto (collectively, the “Reaffirming Loan Parties”) hereby acknowledges that it expects to receive substantial direct and indirect benefits as a result of this Agreement and the transactions contemplated hereby. Each Reaffirming Loan Party hereby consents to this Agreement and the transactions contemplated hereby, and hereby confirms its respective Guarantees (including in respect of the Incremental Revolving Commitments), pledges and grants of security interests (including in respect of the Incremental Revolving Commitments), as applicable, under each of the Loan Documents to which it is party, and agrees that, notwithstanding the effectiveness of this Agreement and the transactions contemplated hereby, such Guarantees, pledges and grants of security interests shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties (including in respect of the Incremental Revolving Commitments). Each of the Reaffirming Loan Parties hereby agrees to, and the Company hereby agrees to cause each Foreign Borrower to, provide to the Administrative Agent within 45 days of the Closing Date (or such later date as the Administrative Agent may agree in its reasonable discretion) reaffirmation documents substantially consistent with the Reaffirmation Documents delivered in connection with the effectiveness of the Credit Agreement as necessary to give effect to the foregoing and the transactions contemplated herein (including the conversion as contemplated by Section 4). Each of the Reaffirming Loan Parties further agrees to take any action that may be required or that is reasonably requested by the Administrative Agent to effect the purposes of this Agreement, the transactions contemplated hereby or the Loan Documents and hereby reaffirms its obligations under each provision of each Loan Document to which it is party.

SECTION 12. No Novation. This Agreement shall not extinguish the obligations for the payment of money outstanding under the Credit Agreement or discharge or release the Lien or priority of any Loan Document or any other security therefor or any guarantee thereof. Nothing herein contained shall be construed as a substitution or novation of the Obligations outstanding under the Credit Agreement or instruments guaranteeing or securing the same, which shall remain in full force and effect, except as modified hereby or by instruments executed concurrently herewith. Nothing expressed or implied in this Agreement or any other document contemplated hereby shall be construed as a release or other discharge of any Loan Party under the



Credit Agreement or any other Loan Document from any of its obligations and liabilities thereunder. The Credit Agreement and each of the other Loan Documents shall remain in full force and effect, until and except as modified hereby or thereby in connection herewith or therewith.

**SECTION 13. Applicable Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 14. Counterparts. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to this Agreement shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. “Electronic Signatures” means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

(b) It is acknowledged and agreed that, as soon as reasonably practicable after the Effective Date (but no later than the Closing Date), the Company shall cause NCR Nederland B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) organized under the laws of the Netherlands, to become a party to this Agreement in its capacity as a Foreign Borrower under the Credit Agreement. Such joinder shall be evidenced by the delivery of a signature page from NCR Nederland B.V. to the Administrative Agent. Upon delivery of such signature page (the date of such delivery, the “Joinder Date”), NCR Nederland B.V. shall for all purposes be deemed to be a party to this Agreement (and shall be deemed to be a “Reaffirming Loan Party” for purposes of Section 11) as if it was a signatory to this Agreement on the date hereof.

SECTION 15. Headings. Section headings used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 16. Incorporation by Reference. The submission to jurisdiction, service of process, venue, judgment currency, waiver of immunity, waiver of jury trial and electronic signature provisions set forth in the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

NCR CORPORATION,

by /s/ Timothy Oliver

Name: Timothy Oliver

Title: Chief Financial Officer

[Signature Page to Incremental Revolving Facility Agreement]

NCR INTERNATIONAL, INC.,

by /s/ Farzad Jalil

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Name: Farzad Jalil

Title: Treasurer

[Signature Page to Incremental Revolving Facility Agreement]

Executed by NCR LIMITED acting by:

by /s/ Caroline Kee

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Name: Caroline Kee

Title: Director

[Signature Page to Incremental Revolving Facility Agreement]

Signed for and on behalf of NCR GLOBAL SOLUTIONS  
LIMITED

by /s/ John Desmond

Name: John Desmond

Title: Director

[Signature Page to Incremental Revolving Facility Agreement]

JPMORGAN CHASE BANK, N.A.,  
as an Incremental Revolving Lender, as an Issuing Bank and as  
Administrative Agent

by /s/ Matthew Cheung  
Name: Matthew Cheung  
Title: Vice President

[Signature Page to Incremental Revolving Facility Agreement]

BANK OF AMERICA, N.A., as an Incremental Revolving  
Lender and as an Issuing Bank

By /s/ Bryan Dobrovolski  
Name: Bryan Dobrovolski  
Title: Director

[Signature Page to Incremental Revolving Facility Agreement]

WELLS FARGO BANK, N.A., as an Incremental Revolving  
Lender and as an Issuing Bank

By /s/ Evan Waschitz

Name: Evan Waschitz

Title: Director

[Signature Page to Incremental Revolving Facility Agreement]



TRUST BANK, as an Incremental Revolving Lender and as an Issuing Bank

By /s/ Nicholas Hahn  
Name: Nicholas Hahn  
Title: Managing Director

[Signature Page to Incremental Revolving Facility Agreement]

MUFG BANK, LTD., as an Incremental Revolving Lender and  
as an Issuing Bank

By /s/ Joseph Siri  
Name: Joseph Siri  
Title: Vice President

[Signature Page to Incremental Revolving Facility Agreement]

PNC BANK, NATIONAL ASSOCIATION, as an Incremental  
Revolving Lender and as an Issuing Bank

By /s/ Andrew Fraser  
Name: Andrew Fraser  
Title: Vice President

[Signature Page to Incremental Revolving Facility Agreement]

ROYAL BANK OF CANADA, as an Incremental Revolving  
Lender and as an Issuing Bank

By /s/ Kamran Khan  
Name: Kamran Khan  
Title: Authorized Signatory

[Signature Page to Incremental Revolving Facility Agreement]

CAPITAL ONE, NATIONAL ASSOCIATION, as an  
Incremental Revolving Lender and as an Issuing Bank

By /s/ Elizabeth Masciopinto  
Name: Elizabeth Masciopinto  
Title: Duly Authorized Signatory

[Signature Page to Incremental Revolving Facility Agreement]

SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: TD Bank, N.A.

By /s/ Vijay Prasad  
Name: Vijay Prasad  
Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: Fifth Third Bank, National Association

By /s/ Dan Komitor  
Name: Dan Komitor  
Title: Managing Director

Name of Incremental Revolving Lender: CITIZENS BANK, N.A.

By /s/ Jason Crowley  
Name: Jason Crowley  
Title: Vice President



SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: CITIBANK, N.A.

By /s/ James M. Walsh  
Name: James M. Walsh  
Title: Vice President



SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: KeyBank National Association

By /s/ Karson Malecky  
Name: Karson Malecky  
Title: Vice President

Name of Incremental Revolving Lender: U.S. Bank National Association

By /s/ Steven L. Sawyer  
Name: Steven L. Swyer  
Title: Senior Vice President



SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: SUMITOMO MITSUI BANKING CORPORATION

By /s/ Michael Maguire  
Name: Michael Maguire  
Title: Managing Director

SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: STANDARD CHARTERED BANK

By /s/ James Beck  
Name: James Beck  
Title: Associate Director

SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: HSBC Bank USA, National Association

By /s/ Alyssa Champion  
Name: Alyssa Champion  
Title: Vice President





SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: People's United Bank, N.A.

By /s/ Darci Buchanan  
Name: Darci Buchanan  
Title: Senior Vice President

SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: CANADIAN IMPERIAL BANK OF COMMERCE, NEW YORK BRANCH

By /s/ Andrew R. Campbell  
Name: Andrew R. Campbell  
Title: Authorized Signatory

By /s/ Farhad Merali  
Name: Farhad Merali  
Title: Authorized Signatory



SIGNATURE PAGE TO THE INCREMENTAL REVOLVING FACILITY  
AGREEMENT RELATING TO THE NCR CORPORATION CREDIT AGREEMENT

Name of Incremental Revolving Lender: THE NORTHERN TRUST COMPANY

By /s/ Kimberly A. Crotty  
Name: Kimberly A. Crotty  
Title: Vice President

Name of Incremental Revolving Lender: Synovus Bank

By /s/ Chandra Cockrell  
Name: Chandra Cockrell  
Title: Corporate Banker

Name of Incremental Revolving Lender: First National Bank of Omaha

By /s/ Dale Ervin  
Name: Dale Ervin  
Title: Director

NCR Corporation  
Incremental Revolving Facility  
Summary of Principal Terms and Conditions

Set forth below is a summary of the principal terms and conditions for the Incremental Revolving Facility. Capitalized terms used but not defined shall have the meanings set forth in the Incremental Revolving Facility Agreement to which this Exhibit I is attached (the “Incremental Facility Agreement”).

<u>Borrowers:</u>	Same as under the Credit Agreement.
<u>Administrative Agent and Collateral Agent:</u>	JPMorgan Chase Bank, N.A. will continue to act as sole administrative agent and collateral agent under the Amended Credit Agreement, including with respect to the Incremental Revolving Facility (as defined below) (in such capacities, the “ <u>Administrative Agent</u> ”).
<u>Incremental Revolving Facility:</u>	\$1,100,000,000 of senior secured credit facilities, comprised of a senior secured incremental revolving credit facility (the “ <u>Incremental Revolving Facility</u> ”).
<u>Maturity:</u>	The Incremental Revolving Commitments will terminate (and Revolving Loans in respect thereof will mature) on the earlier of (a) the date that is five years after the Closing Date and (b) the date that is 91 days prior to the Term Maturity Date (as defined in the Credit Agreement as in effect on January 25, 2021) (such date, the “ <u>Incremental Revolving Maturity Date</u> ”); <u>provided</u> that if such date is not a business day, the Incremental Revolving Maturity Date shall be the next preceding business day.
<u>Availability:</u>	From the Closing Date until the Incremental Revolving Maturity Date.
<u>Letters of Credit:</u>	Same as under the Credit Agreement.
<u>Foreign Subfacility:</u>	Same as under the Credit Agreement.
<u>Use of Proceeds:</u>	The proceeds of the Revolving Loans shall be used for working capital and general corporate purposes of the Company and its subsidiaries and for any other purpose not prohibited by the Amended Credit Agreement.



<u>Additional Incremental Facilities:</u>	Same as under the Credit Agreement.
<u>Fees and Interest Rates:</u>	As set forth on <u>Annex I</u> hereto.
<u>Voluntary Prepayments:</u>	Same as under the Credit Agreement.
<u>Mandatory Prepayments:</u>	Same as under the Credit Agreement.
<u>Guarantors:</u>	Same as under the Credit Agreement.
<u>Collateral:</u>	Same as under the Credit Agreement.
<u>Conditions on the Closing Date:</u>	As set forth in Section 7 of the Incremental Facility Agreement.
<u>Incremental Revolving Facility Documentation:</u>	The Incremental Revolving Facility will be documented under the Incremental Facility Agreement, it being understood and agreed that the Company and the Administrative Agent will effect such changes to the Credit Agreement (in the form of an amendment and restatement of the Credit Agreement or a “conformed copy” thereof) as may be necessary or appropriate, in the reasonable discretion of the Company and the Administrative Agent, to give effect to the Incremental Revolving Facility on the terms and conditions set forth herein and in the Incremental Facility Agreement, including, without limitation, by amending the Credit Agreement to incorporate certain updated provisions relating to the replacement of LIBOR for the Incremental Revolving Facility in the form attached as <u>Exhibit II</u> to the Incremental Facility Agreement.

<u>Financial Covenant:</u>	As set forth in the Credit Agreement, it being understood and agreed that, effective as of the Closing Date, the provisions of Section 6.12 of the Credit Agreement will be for the benefit of the Incremental Revolving Lenders and the Incremental Term A-2021 Lenders (as defined in the Incremental Term Loan A Facility Agreement, dated as of the date hereof, among the Company, the other Loan Parties party thereto, the Tranche 1 Incremental Term-A 2021 Lenders (as defined therein) party thereto, the Tranche 2 Incremental Term A-2021 Lenders (as defined therein) party thereto and the Administrative Agent) and that, notwithstanding the provisions of Section 9.02 of the Credit Agreement, amendments and waivers of such Section 6.12 will require the consent of a Majority in Interest (as defined in the Credit Agreement) of the Incremental Revolving Lenders and the Incremental Term A-2021 Lenders, voting together for such purpose.
<u>Representations and Warranties:</u>	Same as under the Credit Agreement.
<u>Affirmative Covenants:</u>	Same as under the Credit Agreement.
<u>Negative Covenants:</u>	Same as under the Credit Agreement.
<u>Events of Default:</u>	Same as under the Credit Agreement.
<u>Assignments and Participations:</u>	Same as under the Credit Agreement.
<u>Voting and Other Miscellaneous Provisions:</u>	Same as under the Credit Agreement; <u>provided</u> that the Credit Agreement will be amended as set forth in the Incremental Facility Agreement to incorporate customary European Union and United Kingdom bail-in provisions in the form attached as <u>Exhibit II</u> to the Incremental Facility Agreement.
<u>Governing Law and Forum:</u>	New York.
<u>Counsel for Administrative Agent:</u>	Cravath, Swaine & Moore LLP.

**INTEREST AND CERTAIN FEES**

**Interest Rates:** Revolving Loans will bear interest, at the option of the applicable Borrower, at LIBOR (as defined below) or ABR (as defined below) for Revolving Loans denominated in Dollars, at LIBOR for Revolving Loans denominated in Pounds Sterling or at EURIBOR (as defined below) for Revolving Loans denominated in Euro plus, in each case, the interest rate margins applicable under the leverage-based pricing grid set forth below (the "Pricing Grid"); provided that (a) until the delivery of financial statements for the first full fiscal quarter following the Closing Date, pricing level VI shall apply, and (b) if any financial statements or any compliance certificates are not delivered when required pursuant to the Amended Credit Agreement, pricing level VII shall apply until the delivery thereof.

The applicable Borrower may elect interest periods of 1, 3 or 6 months.

As used herein:

"ABR" means the highest of (i) the rate of interest last quoted by the Wall Street Journal as the "Prime Rate", (ii) the federal funds effective rate from time to time (but in any event not less than zero) plus 0.50%, (iii) the LIBOR rate applicable on any day for an interest period of one month plus 1.00% and (iv) 1.00% per annum.

"LIBOR" means the London interbank offered rate (determined by reference to the Reuters screen) (but in any event not less than 0.00% per annum), adjusted at all times for statutory reserves and determined as provided in the Credit Agreement; provided that the Credit Agreement will be amended as set forth in the Incremental Facility Agreement to incorporate certain updated provisions relating to the replacement of LIBOR for the Incremental Revolving Facility in the form attached as Exhibit II to the Incremental Facility Agreement.

"EURIBOR" means the rate calculated by the European Central Bank (determined by reference to the Reuters screen) (but

in any event not less than 0.00% per annum) and determined as provided in the Credit Agreement.

Interest Payment Dates: Same as under the Credit Agreement.

Commitment Fees: The Company shall pay a commitment fee calculated at a rate per annum equal to a rate determined by reference to the Pricing Grid, on the daily unused portion of the Incremental Revolving Facility, payable quarterly in arrears.

Letter of Credit Fees: Same as under the Credit Agreement.

Default Rate: Same as under the Credit Agreement.

Rate and Fee Basis: Same as under the Credit Agreement.

Pricing Grid

Level	Leverage Ratio	ABR Spread	Eurocurrency Spread	Commitment Fee Rate
I	Less than 1.50 to 1.0	0.25%	1.25%	0.150%
II	Greater than or equal to 1.50 to 1.0, but less than 2.00 to 1.0	0.50%	1.50%	0.200%
III	Greater than or equal to 2.00 to 1.0, but less than 3.00 to 1.0	0.75%	1.75%	0.250%
IV	Greater than or equal to 3.00 to 1.0, but less than 3.50 to 1.0	1.00%	2.00%	0.300%
V	Greater than or equal to 3.50 to 1.0, but less than 4.25 to 1.0	1.25%	2.25%	0.350%
VI	Greater than or equal to 4.25 to 1.0, but less than 4.75 to 1.0	1.50%	2.50%	0.400%
VII	Greater than or equal to 4.75 to 1.0	1.75%	2.75%	0.450%

**Certain Amendments to the Credit Agreement**

[See Attached.]

CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, and (III) that certain Third Amendment, dated as of January 22, 2021), and as further amended as of February 4, 2021 (this “Agreement”), among NCR CORPORATION, a Maryland corporation (the “Company”), the FOREIGN BORROWERS party hereto, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as the Administrative Agent.

## **PRELIMINARY STATEMENTS**

The Company, certain of the Lenders (such term and other capitalized terms used in these preliminary statements being defined in Section 1.01 hereof) and the Administrative Agent are party to the Existing Credit Agreement, and, upon satisfaction of the conditions set forth herein, have agreed, together with the Foreign Borrowers and the other Lenders, to amend and restate the Existing Credit Agreement in the form of this Agreement.

The Lenders have indicated their willingness to lend, and the Issuing Banks have indicated their willingness to issue Letters of Credit, in each case, on the terms and subject to the conditions set forth herein.

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

### ARTICLE I

#### Definitions

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

“ABR”, when used in reference to any Loan or Borrowing, means such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Alternate Base Rate.

“Accepting Lenders” has the meaning set forth in Section 2.21(a).

“Acquired Company Representations” means, with respect to any Limited Condition Acquisition, the representations and warranties made in the acquisition agreement with respect to such Limited Condition Acquisition that are material to the interests of the Lenders, but only to the extent that the Company or any of its Affiliates has the right under such acquisition agreement not to consummate such Limited Condition Acquisition, or to terminate the obligations of the Company or any of its Affiliates under such acquisition agreement, as a result of a breach of such representations and warranties.

“Adjusted Consolidated Net Income” means, for any period, Consolidated Net Income for such period; provided, however, that there shall not be included in such Adjusted Consolidated Net Income for any such period:

(a) any gain (or loss) realized upon the sale or other disposition of any assets of the Company, its consolidated Subsidiaries or any other Person (including pursuant to any sale-and-leaseback arrangement) which are not sold or otherwise disposed of in the ordinary course of business and any gain (or loss) realized upon the sale or other disposition of any Equity Interest of any Person;

(b) extraordinary gains or losses;

(c) the cumulative effect of a change in accounting principles;

(d) any net after-tax gain (or loss) attributable to the early retirement or conversion of Indebtedness;

(e) amortization of non-cash pension expenses and any after-tax one-time gains or losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains and losses on pension plans and settlement/curtailment gains and losses thereon;

(f) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP;

(g) the effects of adjustments in the Company’s consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to any acquisition that is consummated after September 17, 2012, net of taxes; and

(h) any increase to reserves for Environmental Liabilities except to the extent cash payments are made in respect of such Environmental Liabilities from such increase.

“Adjusted Eurocurrency Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) for any Eurocurrency Borrowing denominated in Dollars, the LIBO Rate for such Interest Period multiplied by the Statutory Reserve Rate, (b) for any Eurocurrency Borrowing denominated in Sterling, the LIBO Rate for such Interest Period, or (c) for any Eurocurrency Borrowing denominated in Euros, the EURIBO Rate for such Interest Period.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent hereunder and under the other Loan Documents (or, as applicable, such Affiliates thereof as it shall from time to time designate for the purpose of performing its

obligations hereunder in such capacity, including J.P. Morgan Europe Limited) and its permitted successors in such capacity as provided in Article VIII.

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

“Affected Class” has the meaning set forth in Section 2.21(a).

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

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly through one or more intermediary Controlling Persons Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Revolving Commitment” means the sum of the Revolving Commitments of all the Revolving Lenders.

“Aggregate Revolving Exposure” means the sum of the Revolving Exposures of all the Revolving Lenders.

“Agreement” has the meaning set forth in the preamble hereto.

“Agreement Currency” has the meaning set forth in Section 9.21(b).

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1.00% per annum and (c) the Adjusted Eurocurrency Rate on such day (or, if such day is not a Business Day, the immediately preceding Business Day) for a deposit in Dollars with a maturity of one month plus 1.00% per annum. For purposes of clause (c) above, the Adjusted Eurocurrency Rate for any day shall be based on the applicable Screen Rate (or, if the applicable Screen Rate is not available for such one-month maturity, the Interpolated Screen Rate, if available) at approximately 11:00 a.m., London time, on such day for deposits in Dollars with a maturity of one month. Notwithstanding the foregoing, if the Alternate Base Rate, determined as provided above, would otherwise be less than zero, then the Alternate Base Rate shall be deemed to be zero for all purposes of this Agreement. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate, as the case may be. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.13 (for the avoidance of doubt, solely in the case of Incremental Term A-2021 Loans and Dollar-denominated Revolving Loans, only until the Benchmark Replacement has been determined pursuant to Section 2.13(a)(ii)), then the Alternate Base Rate shall be the greater of the rates referred to in clauses (a) and (b) above and shall be determined without reference to clause (c) above.



“Alternative Currency Equivalent” means, for any amount of any Euros or Sterling, at the time of determination thereof, (a) if such amount is expressed in Euros or Sterling, such amount and (b) if such amount is expressed in Dollars, the equivalent of such amount in such Euros or Sterling determined by using the Exchange Rate with respect to Euros or Sterling, as the case may be, in effect for such amount on such date.

“Ancillary Document” has the meaning assigned to it in Section 9.06(b).

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or any of its Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

“Applicable Creditor” has the meaning set forth in Section 9.21(b).

“Applicable Percentage” means, at any time, with respect to any Revolving Lender, the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at such time, subject to adjustment as required to give effect to any reallocation of LC Exposure made pursuant to paragraph (c) or (d) of Section 2.19 or the penultimate paragraph of Section 2.19. If the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments and to any Revolving Lender’s status as a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, (a) with respect to any Term Loan, (i) 1.50% per annum, in the case of an ABR Loan, or (ii) 2.50% per annum, in the case of a Eurocurrency Loan, (b) with respect to any Incremental Term Loan of any Series, the rate per annum specified in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series and (c) with respect to any Revolving Loan that is an ABR Loan or a Eurocurrency Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, respectively, the applicable rate per annum set forth below under the caption “ABR Spread”, “Eurocurrency Spread” or “Commitment Fee Rate”, respectively, based upon the Leverage Ratio as of the end of the fiscal quarter of the Company for which consolidated financial statements have theretofore been most recently delivered pursuant to Sections 5.01(a) or 5.01(b) of this Agreement; provided that from the Effective Date until delivery of the consolidated financial statements pursuant to Section 5.01(b) for the fiscal quarter ended September 30, 2019, the Applicable Rate in respect of any Revolving Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, shall be determined by reference to Level III:

Level	Leverage Ratio	ABR Spread	Eurocurrency Spread	Commitment Fee Rate
I	Less than 1.50 to 1.0	0.25%	1.25%	0.150%
II	Greater than or equal to 1.50 to 1.0, but less than 2.00 to 1.0	0.50%	1.50%	0.200%
III	Greater than or equal to 2.00 to 1.0, but less than 3.00 to 1.0	0.75%	1.75%	0.250%
IV	Greater than or equal to 3.00 to 1.0, but less than 3.50 to 1.0	1.00%	2.00%	0.300%
V	Greater than or equal to 3.50 to 1.0	1.25%	2.25%	0.350%

For purposes of the foregoing, each change in the Applicable Rate resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the Business Day following the date of delivery to the Administrative Agent pursuant to Sections 5.01(a) or 5.01(b) of the consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the foregoing, the Applicable Rate shall be based on the rates per annum set forth in Category V if the Company fails to deliver the consolidated financial statements required to be delivered pursuant to Sections 5.01(a) or 5.01(b) or any Compliance Certificate required to be delivered pursuant hereto, in each case within the time periods specified herein for such delivery, during the period commencing on and including the day of the occurrence of a Default resulting from such failure and until the delivery thereof. Notwithstanding anything to the contrary in this definition, the determination of the Applicable Rate will be subject to the provisions of Section 2.12(f).

“Applicable Ticking Fee Rate” means, (i) at any time on or prior to the date that is 30 days after the Effective Date, a rate per annum equal to 0.00%, (ii) at any time after the date that is 30 days after the Effective Date and on or prior to the date that is 60 days after the Effective Date, a rate per annum equal to 50% of the Applicable Rate for Term Loans that are Eurocurrency Loans and (iii) at any time after the date that is 60 days after the Effective Date, a rate per annum equal to the Applicable Rate for Term Loans that are Eurocurrency Loans.

“Applicant Borrower” has the meaning set forth in Section 2.23(a).

“Applicant Borrower Amendments” has the meaning set forth in Section 2.23(a).

“Approved Commercial Bank” means a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000.

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit

in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arrangers” means BofA Securities, Inc., J.P. Morgan Chase Bank, N.A., Wells Fargo Securities, LLC, MUFG Bank, Ltd., PNC Bank, National Association, RBC Capital Markets, Suntrust Robinson Humphrey, Inc. and Capital One, National Association, in their capacities as joint lead arrangers and joint bookrunners for the credit facilities provided for herein.

“Article 55 BRRD” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee, with the consent of any Person whose consent is required by Section 9.04, and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

“Available Amount” means, as of any day, the excess, if any, of:

(a) the sum of (i) \$50,000,000, plus (ii) 50% of cumulative Adjusted Consolidated Net Income from July 1, 2012; over

(b) the amount of all Restricted Payments made in reliance on Section 6.08(a)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(a)(vi) of this Agreement and all payments made in reliance on Section 6.08(b)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(b)(vi) of this Agreement.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement 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 clause (vi) of Section 2.13(a).

“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 ~~which has implemented, or which at any time implements,~~ implementing Article 55 ~~BRRD~~ of Directive 2014/59 EU of the

European Parliament and of the Council of the European Union, the ~~relevant~~ implementing law ~~or~~, regulation ~~as, rule or requirement for such EEA Member Country from time to time which is~~ described in the EU Bail-In Legislation Schedule ~~from time to time~~; and

(b) ~~in relation to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation 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).~~

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy”.

“Bankruptcy Event” means, with respect to any Person, that such Person has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, examiner, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority, so long as such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any agreements made by such Person.

“Benchmark” means, initially, the Eurocurrency Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to the Eurocurrency Rate or the 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 clause (ii) or clause (iii) of Section 2.13(a).

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; provided that, in the case of any Revolving Loan denominated in Euros or Sterling, “Benchmark Replacement” shall mean the alternative set forth in (c) below:

(a) the sum of: (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment;

(b) the sum of: (i) Daily Simple SOFR and (ii) the related Benchmark Replacement Adjustment;

(c) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in the applicable currency at such time and (ii) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (a), such Unadjusted Benchmark Replacement is 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; provided further that, solely with respect to an Incremental Term A-2021 Loan or Revolving Loan denominated in Dollars, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment, as set forth in clause (a) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (a), (b) or (c) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(a) for purposes of clauses (a) and (b) of the definition of “Benchmark Replacement”, the first alternative set forth in the order below that can be determined by the Administrative Agent:

(i) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(ii) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such

Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(b) for purposes of clause (c) of the definition of “Benchmark Replacement”, the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, for the applicable Corresponding Tenor giving due consideration to (i) 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 on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable currency at such time;

provided that, in the case of clause (a) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

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

“Benchmark Replacement Date” means, with respect to any Benchmark, the earliest to occur of the following events with respect to such 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 of such Benchmark (or such component thereof);

(b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the date of the public statement or publication of information referenced therein;

(c) in the case of a Term SOFR Transition Event, the date that is 30 days after the date a Term SOFR Notice is provided to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, pursuant to Section 2.13(a)(iii); or

(d) in the case of an Early Opt-In Election, the sixth Business Day after the date notice of such Early Opt-In Election is provided to the applicable Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth Business Day after the date notice of such Early Opt-In Election is provided to such Lenders, written notice of objection to such Early Opt-In Election from Lenders comprising the Majority in Interest of the Incremental Term A-2021 Lenders and/or of the Revolving Lenders, as applicable.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) 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, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such 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 of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(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 Board of Governors, the NYFRB, 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), in each case which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(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 of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Unavailability Period” means, with respect to any Benchmark, the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clause (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Sections 2.13(a) and (b) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.13(a).

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

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

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

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

“Blocking Regulation” means Regulation (EU) No 2271/96 of the European Parliament and of the Council of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based on or resulting therefrom.



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

“Borrower” means each of the Company and each Foreign Borrower.

“Borrower Agent” has the meaning set forth in Section 1.07.

“Borrowing” means Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” means (a) in the case of a Borrowing denominated in Dollars, \$5,000,000, (b) in the case of a Borrowing denominated in Euros, €5,000,000, and (c) in the case of a Borrowing denominated in Sterling, £5,000,000.

“Borrowing Multiple” means (a) in the case of a Borrowing denominated in Dollars, \$1,000,000, (b) in the case of a Borrowing denominated in Euros, €1,000,000, and (c) in the case of a Borrowing denominated in Sterling, £1,000,000.

“Borrowing Request” means a written request by a Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit B or any other form approved by the Administrative Agent.

“Brazil CMA” means the Contract Manufacturing Agreement dated as of July 26, 2011, by and between NCR Global Solutions Group, Limited, an Irish limited company, and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Shareholders’ Agreement” means the Shareholders’ Agreement dated as of October 4, 2011, by and among the Company, NCR Manaus, Scopus Industrial and Scopus Tecnologia, including the schedules and exhibits thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Subscription Agreement” means the Equity Subscription Agreement dated as of July 26, 2011, by and among the Company, Scopus Industrial, Scopus Tecnologia and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Transaction Documents” means the Brazil CMA, the Brazil Shareholders’ Agreement and the Brazil Subscription Agreement.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, (a) when used in connection with a Eurocurrency Loan in any currency, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in such currency in the London interbank market or not open for general business in London, and (b) when used in connection with any date for the payment or purchase of Euros, the term

“Business Day” shall also exclude any day on which TARGET2 is not open for the settlement of payments in Euro or banks are not open for general business in London.

“Capital Expenditures” means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Company and its consolidated Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Company and its consolidated Subsidiaries for such period prepared in accordance with GAAP, excluding (i) any such expenditures made to restore, replace or rebuild assets to the condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, condemnation or similar proceeding, (ii) any such expenditures constituting Permitted Acquisitions or any other acquisition of all the Equity Interests in, or all or substantially all the assets of (or the assets constituting a business unit, division, product line or line of business of), any Person and (iii) any such expenditures in the form of a substantially contemporaneous exchange of similar property, plant, equipment or other capital assets, except to the extent of cash or other consideration (other than the assets so exchanged), if any, paid or payable by the Company or its consolidated Subsidiaries and (b) such portion of principal payments on Capital Lease Obligations made by the Company or any of its Subsidiaries during such period as is attributable to additions to property, plant and equipment that have not otherwise been reflected on the consolidated statement of cash flows as additions to property, plant and equipment for such period.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person; subject to Section 1.04, the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. For purposes of Section 6.02, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Cash Consideration” has the meaning set forth in Section 6.05.

“CFC” means (a) each Person that is a “controlled foreign corporation” for purposes of the Code, (b) each subsidiary of any such controlled foreign corporation, (c) any Foreign Subsidiary which is an entity disregarded as separate from its owner under Treasury Regulation 301.7701-3 and (d) any CFC Holdco.

“CFC Holdco” means a Subsidiary that has no material assets other than Equity Interests in one or more CFCs (including for this purpose, any debt or other instrument treated as equity for U.S. Federal income tax purposes), any Indebtedness owed to it (or so treated for U.S. Federal income tax purposes) by any CFC and rights to Intellectual Property relating solely to and utilized solely by such CFCs (but in respect of which no significant royalty, license or similar fees are paid by such CFCs) and assets incidental thereto.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the Effective Date), other than an employee benefit plan or related trust of the Company or of the Company and any Subsidiaries, of Equity Interests in the Company representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Company; (b) persons who were (i) directors of the Company on the Effective Date, (ii) nominated or approved by the board of directors of the Company, (iii) nominated or approved by the board of directors of the Company as director candidates prior to their election to the board of directors of the Company or (iv) appointed by directors who were directors of the Company on the Effective Date or were nominated or approved as provided in clause (ii) or clause (iii) above ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of the Company; or (c) the occurrence of any “change in control” (or similar event, however denominated) with respect to the Company under and as defined in any indenture or other agreement or instrument evidencing, governing the rights of the holders of or otherwise relating to any Material Indebtedness of the Company or under and as defined in the Existing Preferred Documentation.

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued 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, implemented or issued.

“Charges” has the meaning set forth in Section 9.13.

“Class”, when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Term Loans, Incremental Term Loans of any Series or Revolving Loans, (b) any Commitment, refers to whether such Commitment is an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or a Revolving Commitment and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class. From and after the funding of the Delayed Draw Term Loans, if any, the Delayed Draw Term Loans and the Initial Term Loans shall constitute a single Class of Term Loans.

“Code” means the Internal Revenue Code of 1986.

“Collateral” means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Security Documents as

security for the Obligations; provided that the Collateral shall in no event include any Excluded Assets.

“Collateral Agreement” means the Amended and Restated Guarantee and Collateral Agreement among the Borrowers, the other Loan Parties and the Administrative Agent, as amended and restated as of March 31, 2016.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Administrative Agent shall have received from each Borrower and each Designated Subsidiary either (i) a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Person or (ii) in the case of any Person that becomes a Designated Subsidiary after the Effective Date (including by ceasing to be an Excluded Subsidiary), a supplement to the Collateral Agreement, in substantially the form specified therein, duly executed and delivered on behalf of such Person, together with documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01 with respect to such Designated Subsidiary, in each case, if reasonably requested by the Administrative Agent;

(b) all Equity Interests in any Subsidiary owned by or on behalf of any Guarantor Loan Party shall have been pledged pursuant to the Collateral Agreement and, in the case of Equity Interests in any Foreign Subsidiary, where the Administrative Agent so requests in connection with the pledge of such Equity Interests, a Foreign Pledge Agreement (provided that, in each case, the Guarantor Loan Parties shall not be required to pledge 66 $\frac{2}{3}$ % or more of the outstanding voting Equity Interests in any CFC), and the Administrative Agent shall, to the extent required by the Collateral Agreement, have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c) (i) all Indebtedness of the Company and each Subsidiary and (ii) all Indebtedness (other than Permitted Investments in non-certificated or book entry form) of any other Person in a principal amount of \$10,000,000 or more that, in each case, is owing to any Guarantor Loan Party shall be evidenced by a promissory note (in each case, which may take the form of an intercompany note) and shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements, required by Requirements of Law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the term “Collateral and Guarantee Requirement”, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording (or the

Administrative Agent shall have been authorized to make such filing, registration or recording); and

(e) each Loan Party shall have obtained all consents and approvals required to be obtained by it at such time in connection with the execution and delivery of all Security Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) the foregoing provisions of this definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of legal opinions or other deliverables with respect to, particular assets of the Guarantor Loan Parties, or the provision of Guarantees by any Subsidiary, if, and for so long as the Administrative Agent and the Company reasonably agree that the cost of creating or perfecting such pledges or security interests in such assets, or obtaining such legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any adverse tax consequences to the Company and the Subsidiaries, including any potential Section 956 Impact), shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (b) Liens required to be granted from time to time pursuant to the term “Collateral and Guarantee Requirement” shall be subject to exceptions and limitations set forth in the Security Documents and, to the extent appropriate in the applicable jurisdiction, as reasonably agreed between the Administrative Agent and the Company and (c) in no event shall the Collateral include any Excluded Assets. The Administrative Agent may grant extensions of time for the creation and perfection of security interests in, or the obtaining of, any applicable legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Subsidiary (including, without limitation, extensions beyond the Effective Date, as required pursuant to Section 5.14 or in connection with assets acquired, or Subsidiaries formed or acquired, after the Effective Date) where it determines that such action cannot be accomplished, or undue effort or expense would be required to accomplish such action, by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents. Any such extensions granted by the Administrative Agent under the Existing Credit Agreement will continue to be effective in accordance with the terms thereof for purposes hereof.

“Commitment” means a Revolving Commitment, an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or any combination thereof (as the context requires).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein that is distributed to the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to Section 9.01, including through the Platform.

“Company” has the meaning set forth in the preamble hereto.

“Compliance Certificate” means a Compliance Certificate substantially in the form of Exhibit E or any other form approved by the Administrative Agent.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period, plus

(a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of

(i) consolidated interest expense for such period (including imputed interest expense in respect of Capital Lease Obligations);

(ii) provision for taxes based on income, profits or losses, including foreign withholding taxes during such period;

(iii) all amounts attributable to depreciation and amortization for such period;

(iv) any extraordinary losses for such period, determined on a consolidated basis in accordance with GAAP;

(v) any Non-Cash Charges for such period;

(vi) any losses attributable to early extinguishment of Indebtedness or obligations under any Hedging Agreement other than those relating to foreign currencies;

(vii) Pro Forma Adjustments in connection with Material Acquisitions;

(viii) nonrecurring integration expenses in connection with acquisitions (including severance costs, retention payments, change of control bonuses, relocation expenses and similar integration expenses);

(ix) one-time out-of-pocket transactional costs and expenses relating to Permitted Acquisitions, Investments outside the ordinary course of business, and Dispositions (regardless of whether consummated), including legal fees, advisory fees, and upfront financing fees;

(x) amortization of non-cash pension expenses and any after-tax one-time losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market losses on pension plans and settlement/curtailment losses thereon;

(xi) out-of-pocket costs and expenses relating to restructurings (including a reduction in force), consolidation, separation or closure of facilities and cost saving initiatives, in each case, undertaken out of the ordinary course of business, and (without duplication) any non-cash charges or reserves taken in connection therewith; provided that each such restructuring, consolidation, separation or closure of facilities or cost

saving initiative has been specifically approved by the board of directors of the Company or by both the chief executive officer and the chief financial officer of the Company;

(xii) out-of-pocket costs and expenses arising from litigation in respect of discontinued operations in an amount not to exceed \$15,000,000 for any Test Period; and

(xiii) unrealized losses during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided that any cash payment made with respect to any Non-Cash Charges added back in computing Consolidated EBITDA for any prior period pursuant to clause (a)(v) above (or that would have been added back had this Agreement been in effect during and after such prior period), other than any cash payments made after the Effective Date in respect of obligations relating to the Fox River, Kalamazoo and Dayton landfill discontinued operations not exceeding, in the aggregate for all periods, the amount of the reserves for such obligations reflected in the Borrower’s financial statements for the fiscal quarter ending June 30, 2011, shall be subtracted in computing Consolidated EBITDA for the period in which such cash payment is made; provided, further, that the aggregate amount of all amounts under clauses (vii), (viii), (ix) and (xi) that increase Consolidated EBITDA in any Test Period (including, for avoidance of doubt, in connection with any calculation made hereunder on a Pro Forma Basis) shall not exceed, and shall be limited to, 15% of Consolidated EBITDA in respect of such Test Period (calculated after giving effect to such adjustments and with no carryover of unused amounts into any subsequent period); and minus

(b) without duplication and to the extent included in determining such Consolidated Net Income,

(i) any extraordinary gains for such period, determined on a consolidated basis in accordance with GAAP;

(ii) any non-cash gains for such period, including any gains attributable to the early extinguishment of Indebtedness;

(iii) any net income tax benefit for such period determined on a consolidated basis in accordance with GAAP;

(iv) any gains attributable to the early extinguishment of obligations under any Hedging Agreement other than those relating to foreign currencies;

(v) after-tax one-time gains associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains on pension plans and settlement/curtailment gains thereon; and

(vi) unrealized gains during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided, further that Consolidated EBITDA for any period shall be calculated so as to exclude (without duplication of any adjustment referred to above) the effect of:

- (A) the cumulative effect of any changes in GAAP or accounting principles applied by management; and
- (B) purchase accounting adjustments.

Notwithstanding the foregoing (but without duplication of any other adjustment referred to above), Consolidated EBITDA will be calculated (i) so as to exclude mark-to-market gains and losses on Plans and Foreign Pension Plans and settlement/curtailment gains and losses relating to such plans, and (ii) to give effect to Mark-to-Market Pension Accounting.

“Consolidated Net Income” means, for any period, the net income or loss of the Company and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income of any Person (other than the Company) that is not a consolidated Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Company or, subject to clauses (b) and (c) below, any other consolidated Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary (other than the Company or any Subsidiary Loan Party) to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Subsidiary (i) is not permitted (A) without any prior approval of any Governmental Authority which, to the actual knowledge of the Company, would be required and that has not been obtained or (B) under any law applicable to the Company or any such Subsidiary (in the case of any foreign law, of which the Company has actual knowledge) or (ii) is not permitted by the operation of the terms of the organizational documents of such Subsidiary or any agreement or other instrument binding upon the Company or any Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions has been legally and effectively waived and (c) the income or loss of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Subsidiary.

“Consolidated Total Assets” means, as of the last day of any fiscal quarter of the Company, total assets as reflected on the consolidated balance sheet of the Company and the Subsidiaries, determined on a consolidated basis in accordance with GAAP.

“Consolidated Total Debt” means, as of any date, without duplication, (a) the aggregate principal amount of Indebtedness of the Company and the Subsidiaries (other than Indebtedness described in clause (f) of “Indebtedness”; provided that there shall be included in Consolidated Total Debt any Indebtedness in respect of drawings under letters of credit or letters of guaranty to the extent such drawings are not reimbursed within two Business Days after the date of any such drawing) outstanding as of such date, to the extent such Indebtedness would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP, plus (b) without duplication of amounts referred to in clause (a), the amount of Third



Party Interests in respect of Permitted Receivables Facilities, in each case, without giving effect to any election to value any Indebtedness at “fair value”, as described in Section 1.04(a), or any other accounting principle that results in the amount of any such Indebtedness (other than zero coupon Indebtedness) to be below the stated principal amount of such Indebtedness, minus (c) the excess, if any, of the amount of Unrestricted Cash owned by the Company and its consolidated Subsidiaries as of such date over \$150,000,000; provided that, solely for the purposes of determining compliance by the Company with the Leverage Ratio set forth in Section 6.12 as of the last day of any Test Period, Consolidated Total Debt shall exclude any outstanding Notes issued in connection with a Permitted Material Acquisition if (i) such Permitted Material Acquisition has not been consummated on or before the last day of such Test Period and (ii) such Notes are secured on the last day of such Test Period by a Lien on the Permitted Escrow Funds with respect to such Notes (and any earnings thereon) having a value at least equal to the principal amount of such Notes, in accordance with the Permitted Escrow Transactions with respect to such Notes. Notwithstanding anything to the contrary herein, Consolidated Total Debt will exclude any Indebtedness (“Refinanced Debt”) outstanding on any determination date which is to be refinanced, repurchased or purchased, redeemed or otherwise repaid pursuant to a transaction not prohibited under this Agreement (and any amounts to be used to effect such refinancing, repurchase, purchase, redemption or repayment shall not be included as Unrestricted Cash for purposes of this Agreement); provided that a notice of redemption of, or an offer to purchase, such Refinanced Debt has been given or made (and, in the case of an offer to purchase, not withdrawn) on or prior to such date (any such Refinanced Debt, “Defeased Debt”).

“Consolidated Total Secured Debt” means, as of any date, the aggregate principal amount of Consolidated Total Debt of the Company and the Subsidiaries outstanding as of such date that is secured by Liens on any property or assets of the Company or the Subsidiaries (which shall be determined after giving effect to clause (c) of the definition of Consolidated Total Debt).

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

**“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.**

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

“Covered Party” has the meaning set forth in Section 9.23.

“Credit Party” means the Administrative Agent, each Issuing Bank and each Lender.

“CRR” means the Council Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 48/2012.

“Cumulative Leverage Ratio Increase Amount” means the sum of the Leverage Ratio Increase Amounts in respect of Pension Funding Indebtedness; provided that the Cumulative Leverage Ratio Increase Amount may not exceed 0.50; provided, further, that if any Indebtedness, including of term loans made under the Existing Credit Agreement (or any other prior credit agreement), is treated by the Company as Pension Funding Indebtedness when incurred, but the proceeds thereof are not applied as required by the definition of “Pension Funding Indebtedness” (including within the applicable time periods specified therein) to qualify as Pension Funding Indebtedness, on and as of the last day of the period during which such proceeds would have to be so applied, such Indebtedness will cease to be Pension Funding Indebtedness, any Leverage Ratio Increase Amounts previously attributable thereto will cease to apply, the Cumulative Leverage Ratio Increase Amount will be recalculated in accordance with the foregoing definition without regard to any such Leverage Ratio Increase Amounts and such recalculated Cumulative Leverage Ratio Increase Amount will apply from and after such day (subject to future adjustment based on subsequent issuances of Pension Funding Indebtedness).

**“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.**

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

“Defaulting Lender” means, subject to Section 2.19, any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, (i) to fund any portion of its Loans, (ii) to fund any portion of its participations in Letters of Credit or (iii) to pay to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) has notified the Company or any Credit Party in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good-faith determination that a condition precedent (specifically identified in such writing or public statement, including, if applicable, by reference to a specific Default) to funding a Loan cannot be satisfied) or generally under other agreements

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

“Defeased Debt” has the meaning given to such term in the definition of “Consolidated Total Debt”.

“Delayed Draw Funding Date” means the date on which the Delayed Draw Term Loans are funded pursuant to clause (b) of Section 2.01.

“Delayed Draw Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make a Delayed Draw Term Loan at any time on or after the Effective Date and on or prior to December 31, 2019, expressed as an amount representing the maximum principal amount of the Delayed Draw Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Delayed Draw Term Commitment is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Delayed Draw Term Commitment, as applicable. The aggregate amount of the Lenders' Delayed Draw Term Commitments as of the Effective Date is \$400,000,000.

“Delayed Draw Term Lender” means a Lender with a Delayed Draw Term Commitment or an outstanding Delayed Draw Term Loan.

“Delayed Draw Term Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Delivery Date” has the meaning set forth in Section 9.15.

“Designated Subsidiary” means each Material Subsidiary that is not an Excluded Subsidiary.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Company or a Subsidiary in connection with a disposition pursuant to Section 6.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Financial Officer of the Company, setting forth the basis of such valuation (the outstanding amount of which will be reduced by the fair market value of the portion of the non-cash consideration converted to cash or Permitted Investments within 180 days following the consummation of such disposition).

“Disclosed Matters” means the actions, suits, proceedings and the environmental, Intellectual Property and other matters disclosed in Schedule 3.06.

“Disposition” has the meaning set forth in Section 6.05.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Company or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date 180 days after the latest Maturity Date (determined as of the date of issuance thereof or, in the case of any such Equity Interests outstanding on the Effective Date, the Effective Date); provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an “asset sale” or a “change of control” (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable, the

cancellation or expiration of all Letters of Credit and the termination or expiration of the Commitments, (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability and (iii) the Existing Preferred shall not constitute Disqualified Equity Interests.

“Dollar Equivalent” means, on any date, (a) with respect to any amount in Dollars, such amount, and (b) with respect to any amount in Euros or Sterling, the equivalent in Dollars of such amount, determined by the Administrative Agent using the Exchange Rate with respect to Euros or Sterling, as the case may be, in effect for such amount on such date. The Dollar Equivalent at any time of the amount of any Letter of Credit, LC Disbursement or Loan denominated in Euros or Sterling shall be the amount most recently determined as provided in Section 1.06.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Dutch Borrower” means any Borrower (i) that is organized or formed under the laws of the Netherlands or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the Netherlands.

“Dutch Non-Public Lender” means: (a) until the publication of an interpretation of “public” as referred to in the CRR by the competent authority/ies: an entity which (i) assumes existing rights and/or obligations vis-à-vis the Company, the value of which is at least EUR 100,000 (or its equivalent in another currency), (ii) provides repayable funds for an initial amount of at least EUR 100,000 (or its equivalent in another currency) or (iii) otherwise qualifies as not forming part of the public; and (b) as soon as the interpretation of the term “public” as referred to in the CRR has been published by the relevant authority/ies: an entity which is not considered to form part of the public on the basis of such interpretation.

**“Early Opt-In Election” means:**

**(a) in the case of (x) Incremental Term A-2021 Loans or (y) Revolving Loans denominated in Dollars, the occurrence of:**

**(i) a notification by the Administrative Agent to (or the request by a Borrower, or the Borrower Agent on its behalf, to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding Dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such**

syndicated credit facilities are identified in such notice and are publicly available for review), and

(ii) the joint election by the Administrative Agent and the Borrowers, or the Borrower Agent on their behalf, to trigger a fallback from LIBO Rate and the provision by the Administrative Agent of written notice of such election to the applicable Lenders; and

(b) in the case of Revolving Loans denominated in Euros or Sterling, the occurrence of:

(i) (A) a determination by the Administrative Agent or (B) a notification by the Lenders comprising the Majority in Interest of the Revolving Lenders to the Administrative Agent (with a copy to the Borrowers, or the Borrower Agent on their behalf) that such Lenders have determined that syndicated credit facilities denominated in the applicable currency being executed at such time, or that include language similar to that contained in Section 2.13(a) are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the Eurocurrency Rate, and

(ii) (A) the election by the Administrative Agent or (B) the election by the Lenders comprising the Majority in Interest of the Revolving Lenders to declare that an Early Opt-In Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrowers, or the Borrower Agent on their behalf, and the applicable Lenders or by the Lenders comprising the Majority in Interest of the Revolving Lenders of written notice of such election to the Administrative Agent.

“Economic IP Transfer” means a transfer of economic interests in Intellectual Property between or among the Company and any of its Subsidiaries that is not accompanied by a transfer of legal ownership of such Intellectual Property.

“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 clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any member state 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.~~

**“EEA Resolution Authority” 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 clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.**

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02), which date is August 28, 2019.

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

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, (d) any bank and (e) any other financial institution or investment fund engaged as a primary activity in the ordinary course of its business in making or investing in commercial loans or debt securities, other than, in each case, a natural person, the Company, any Subsidiary or any other Affiliate of the Company.

“Engagement Letter” means the Engagement Letter dated July 30, 2019, among the Company, JPMorgan Chase Bank, N.A., BofA Securities, Inc. and Wells Fargo Securities, LLC.

“Environmental Laws” means all rules, regulations, codes, ordinances, judgments, orders, decrees and other laws, and all injunctions, notices or binding agreements, issued, promulgated or entered into by any Governmental Authority and relating in any way to the environment, to preservation or reclamation of natural resources, to the management, Release or threatened Release of any Hazardous Material or to related health or safety matters.

“Environmental Liability” means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties and indemnities), directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

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

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived), (b) any failure by any Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, in each case whether or not waived, (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code), (e) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (f) the receipt by the Company or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Company or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, (h) the receipt by the Company or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Company or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA, or in endangered or critical status, within the meaning of Section 305 of ERISA and Section 432 of the Code, or (i) any Foreign Benefit Event.

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

“EURIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in Euros for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the EURIBO Rate shall be the Interpolated Screen Rate with respect to Euros as of the Specified Time on the Quotation Day; and provided, further, that if the EURIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Euro” or “€” means the single currency adopted by participating member states of the European Union in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Eurocurrency”, when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Adjusted Eurocurrency Rate.



“Eurocurrency Rate” means (i) with respect to any Eurocurrency Borrowing denominated in Dollars or Sterling, the LIBO Rate or (ii) with respect to any Eurocurrency Borrowing denominated in Euros, the EURIBO Rate, as applicable.

“Event of Default” has the meaning set forth in Article VII.

“Excess Cash Flow” means, for any fiscal year of the Company, the sum (without duplication) of:

(a) the consolidated net income (or loss) of the Company and its consolidated Subsidiaries for such fiscal year, adjusted to exclude (i) net income (or loss) of any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss is attributable to the non-controlling interest in such consolidated Subsidiary and (ii) any gains or losses attributable to Prepayment Events; plus

(b) depreciation, amortization and other non-cash charges or losses deducted in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash charge to the extent it represents an accrual or reserve for potential cash charges in any future period or amortization of prepaid cash charges that were paid in a prior period); plus

(c) the sum of (i) the amount, if any, by which Net Working Capital decreased during such fiscal year (except as a result of the reclassification of items from short-term to long-term or vice-versa), (ii) the net amount, if any, by which the consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries increased during such fiscal year and (iii) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year; minus

(d) the sum of (i) any non-cash gains included in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash charge that reduced consolidated net income of the Company and its consolidated Subsidiaries in any prior period if Excess Cash Flow was not increased by the amount of the corresponding non-cash charge in such prior period), (ii) the amount, if any, by which Net Working Capital increased during such fiscal year (except as a result of the reclassification of items from long-term to short-term or vice-versa), (iii) the net amount, if any, by which the consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year and (iv) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries increased during such fiscal year; minus

(e) the sum (without duplication) of (i) Capital Expenditures made in cash for such fiscal year (except to the extent financed from Excluded Sources) and (ii) cash consideration paid during such fiscal year to make acquisitions or other long-term

investments (other than cash equivalents) (except to the extent financed from Excluded Sources); minus

(f) the aggregate principal amount of Long-Term Indebtedness repaid or prepaid by the Company and its consolidated Subsidiaries during such fiscal year, excluding (i) Indebtedness in respect of Revolving Loans and Letters of Credit or other revolving credit facilities (unless there is a corresponding reduction in the commitments in respect of such other revolving credit facilities), (ii) Term Loans prepaid pursuant to Section 2.10(a), (c), (d) or (e) and (iii) repayments or prepayments of Long-Term Indebtedness financed from Excluded Sources; minus

(g) the aggregate amount of Restricted Payments made by the Company in cash during such fiscal year pursuant to Section 6.08(a) (other than clauses (i), (ii), (iii) and (ix) of Section 6.08(a)), except Restricted Payments financed from Excluded Sources; minus

(h) other cash payments in respect of long-term liabilities and long-term assets (in each case, other than in respect of Indebtedness) by the Company and its consolidated Subsidiaries during such period to the extent not deducted in determining consolidated net income (or loss) for such fiscal year.

“Exchange Act” means the United States Securities Exchange Act of 1934.

“Exchange Rate” means on any day, for purposes of determining the Dollar Equivalent of any other currency or the Alternative Currency Equivalent of Dollars, the rate of exchange for the purchase of Dollars with such currency or rate of exchange for the purchase of such other currency with Dollars, as applicable, last provided (either by publication or otherwise provided to the Administrative Agent) by the applicable Thomson Reuters Corp., Refinitiv, or any successor thereto (“Reuters”) source on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of Dollars with such currency or purchase of such currency with Dollars, as applicable, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in Dollars or such other currency, as applicable, as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion).

“Excluded Assets” has the meaning set forth in the Collateral Agreement.

“Excluded Sources” means (a) proceeds of any incurrence or issuance of Long-Term Indebtedness or Capital Lease Obligations, (b) Net Proceeds of any sale, transfer, lease or other disposition of assets made in reliance on Section 6.05(k), (c) proceeds of any issuance or sale of Equity Interests in the Company or any capital contributions to the Company and (d) other proceeds not included in the consolidated net income of the Company and its consolidated Subsidiaries.

“Excluded Subsidiary” means (a) any Subsidiary that is not a wholly-owned subsidiary of the Company on the Effective Date or, if later, the date it first becomes a Subsidiary; provided that any such Subsidiary shall cease to be an Excluded Subsidiary at such time as it becomes a wholly owned Subsidiary of the Company and none of clauses (b) through (f) of this definition apply to it, (b) any Subsidiary that is a CFC (and accordingly, in no event shall a CFC be required to enter into any Security Document or pledge any assets hereunder), (c) any Subsidiary that is prohibited by applicable Requirements of Law from guaranteeing the Loan Document Obligations, (d) any Subsidiary (i) that is prohibited by any contractual obligation existing on the Effective Date or on the date such Subsidiary is acquired or otherwise becomes a Subsidiary (but not entered into in contemplation of the Transactions or such acquisition) from guaranteeing the Loan Document Obligations, (ii) that would require governmental (including regulatory) consent, approval, license or authorization to provide such Guarantee, unless such consent, approval, license or authorization has been received, or (iii) for which the provision of such Guarantee would result in a material adverse tax consequence to the Company and the Subsidiaries, taken as a whole (as reasonably determined in good faith by the Company), (e) any captive insurance subsidiary, not for profit subsidiary or special purpose entity, including any Receivables Subsidiary and (f) any other Subsidiary excused from becoming a Guarantor Loan Party pursuant to the last paragraph of the definition of the term “Collateral and Guarantee Requirement”.

“Excluded Taxes” means, with respect to any payment made by any Loan Party under this Agreement or any other Loan Document, any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient:

(a) Taxes imposed on or measured by net or gross income (however denominated), franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes;

(b) in the case of any Lender (other than an assignee pursuant to a request by the Company under Section 2.18(b)), any U.S. Federal, United Kingdom, Irish and Dutch withholding Taxes:

(i) resulting from any law in effect on the date such Lender becomes a party to this Agreement (or designates a new lending office), including circumstances where (x) any United Kingdom taxes are required to be deducted or withheld (a “UK Tax Deduction”) from a payment to (1) a UK Treaty Lender and the payment has not been specified in a direction given by the Commissioners of HMRC under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI1970/488); and (2) a Lender that is a UK Qualifying Lender solely by virtue of subparagraph (b) of the definition of UK Qualifying Lender and an officer of HMRC has given (and not revoked) a direction under section 931 of the UK Taxes Act and the payment could have been made without a UK Tax Deduction if such direction had not been made, or (y) any Irish taxes are required to be deducted or withheld from a payment to an Irish Treaty

Lender and the payment has not been specified in an authorization given by the Revenue Commissioners of Ireland in effect on the Interest Payment Date, or

(ii) attributable to such Lender's failure to comply with Section 2.16(f), (g)(i), (g)(ii), (g)(iii), (g)(vi), (h) and (i),

except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Company with respect to such withholding Taxes pursuant to Section 2.16(a), or except to the extent that any United Kingdom withholding Taxes are attributable to the failure of the relevant Loan Party to comply with its obligations in Section 2.16(g)(i), (g)(iii) and (g)(v);

(c) any U.S. federal withholding Taxes imposed under FATCA; and

(d) the bank levy as set out in the Finance Act 2011 of the United Kingdom and the bank levy as set out in the Bank Tax Act of the Netherlands.

"Existing 5.875% Notes" means the 5.875% senior unsecured notes due 2021 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

"Existing 6.375% Notes" means the 6.375% senior unsecured notes due 2023 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

"Existing Credit Agreement" means this Agreement as amended and in effect immediately prior to the Effective Date.

"Existing Letters of Credit" means the letters of credit previously issued pursuant to the Existing Credit Agreement that (a) are outstanding on the Effective Date and (b) are listed on Schedule 1.01A.

"Existing Preferred" means the Company's Series A Convertible Preferred Stock, par value \$0.01, outstanding on the Effective Date.

"Existing Preferred Documentation" means the Articles Supplementary Classifying the Existing Preferred, the Investment Agreement dated as of November 11, 2015, by and between the Company and the Purchasers identified therein and each other agreement evidencing, governing the rights of the holders of or otherwise relating to the Existing Preferred.

"FAS 842" has the meaning set forth in Section 1.04(a).

"FATCA" means Sections 1471 through 1474 of the Code, as of the Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement,

treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as ~~the NYFRB~~ shall ~~be~~ set forth on ~~its public website~~ the NYFRB’s Website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Fee Letters” has the meaning set forth in the Engagement Letter.

“Financial Officer” means, with respect to any Person, the chief financial officer, principal accounting officer, treasurer, controller or other officer with equivalent responsibility of such Person.

**“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the LIBO Rate or the EURIBO Rate, as applicable.**

“Foreign Benefit Event” means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount of unfunded liabilities permitted under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law, or in excess of the amount that would be permitted absent a waiver from the relevant Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by the Company or any Subsidiary under applicable law on account of the complete or partial termination of such Foreign Pension Plan or the complete or partial withdrawal of any participating employer therein (excluding any liability (including contingent liabilities) that would as a matter of course be imposed under applicable law as the result of any voluntary full or partial termination of any such Foreign Pension Plan as a result of a voluntary and legally permissible defeasance effected by the Company and/or its Subsidiaries of the related obligations and liabilities of the Company and its Subsidiaries under such Foreign Pension Plan) or (e) the occurrence of any transaction that is prohibited under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law and that could reasonably be expected to result in the incurrence of any liability by the Company or any Subsidiary, or the imposition on the Company or any Subsidiary of any fine, excise tax or penalty resulting from any noncompliance with the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law.

“Foreign Borrower” means each of (a) NCR Limited, a private limited company incorporated in England and Wales, (b) NCR Nederland B.V., a private company with limited

liability (*besloten vennootschap met beperkte aansprakelijkheid*) organized under the laws of the Netherlands, (c) NCR Global Solutions Limited, a limited liability company incorporated in Ireland and (d) each other Foreign Borrower that becomes a party hereto pursuant to Section 2.23(a), in each case, unless and until such Person ceases to be a Foreign Borrower hereunder.

“Foreign Borrower Exposure” means, at any time, the Dollar Equivalent of the outstanding principal amount of the Revolving Loans borrowed by the Foreign Borrowers.

“Foreign Borrower Joinder Agreement” means an agreement substantially in the form of Exhibit J-1, executed by the Company and the applicable Foreign Borrower.

“Foreign Borrower Obligations” has the meaning set forth in the Collateral Agreement.

“Foreign Borrower Termination” means an agreement substantially in the form of Exhibit J-2, executed by the Company.

“Foreign Lender” means any Lender that is not a U.S. Person.

“Foreign Pension Plan” means any benefit or welfare plan that under applicable law outside of the United States is funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

“Foreign Pledge Agreement” means a pledge or charge agreement granting a Lien on Equity Interests in a Foreign Subsidiary to secure the Obligations, governed by the law of the jurisdiction of organization of such Foreign Subsidiary and in form and substance reasonably satisfactory to the Administrative Agent.

“Foreign Source Prepayment” means, for any Foreign Subsidiary, any Net Proceeds arising from a Prepayment Event under paragraph (a) or (b) of the definition of Prepayment Event in respect of any asset of such Foreign Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America, applied in accordance with the consistency requirements thereof (subject to Section 1.04); provided, however, that if the Company hereafter changes its accounting standards in accordance with applicable laws and regulations, including those of the SEC, to adopt International Financial Reporting Standards, GAAP will mean such International Financial Reporting Standards after the effective date of such adoption (it being understood that any such adoption will be deemed to be a change in GAAP for all purposes hereof, including for purposes of Section 1.04).

“Governmental Approvals” means all authorizations, consents, approvals, permits, licenses and exemptions of, registrations and filings with, and reports to, Governmental Authorities.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national body exercising such powers or functions, such as the European Union or the European Central Bank).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee (including for purposes of determining the amount of any Investment associated with such Guarantee) shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which the guarantor may be liable pursuant to the terms of the instrument embodying such Guarantee, unless (in the case of a primary obligation that is not Indebtedness) such primary obligation and the maximum amount for which such guarantor may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guarantor’s maximum reasonably anticipated contingent liability in respect thereof as determined by the Company in good faith.

“Guarantor Loan Party” means the Company and each Subsidiary Loan Party.

“Hazardous Materials” means all explosive, radioactive, hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

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

“HMRC” means H.M. Revenue & Customs of the United Kingdom.

“HMRC DT Treaty Passport scheme” means the Board of HMRC Double Taxation Treaty Passport scheme.

“IBA” has the meaning set forth in Section 1.09.

“Impacted Interest Period” means at any time with respect to an Interest Period for a Borrowing denominated in a specified currency that the Screen Rate for such currency is not available at such time for such Interest Period.

“Incremental Commitment” means an Incremental Revolving Commitment or an Incremental Term Commitment.

“Incremental Facility” means an Incremental Revolving Facility or an Incremental Term Facility.

“Incremental Facility Agreement” means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Term Commitments of any Series or Incremental Revolving Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.20.

“Incremental Lender” means an Incremental Revolving Lender or an Incremental Term Lender.

“Incremental Revolving Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.20, to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure under such Incremental Facility Agreement.

“Incremental Revolving Facility” means an incremental portion of the Revolving Commitments established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Revolving Commitments.

“Incremental Revolving Lender” means a Lender with an Incremental Revolving Commitment.

“Incremental Term A Loans” means Incremental Term Loans that (a) are provided primarily by Regulated Banks, (b) amortize at a rate per annum of not less than 2.50% in each period of four consecutive fiscal quarters commencing on or after the funding of such Loans and ending on or prior to the applicable Maturity Date (subject to any customary grace period) and (c) have a weighted average life to maturity, when incurred, of five years or less.



“Incremental Term A-2021 Lenders” has the meaning set forth in the Incremental Term Loan A Facility Agreement, dated as of February 16, 2021, among the Company, the other Loan Parties party thereto, the Tranche 1 Incremental Term A-2021 Lenders (as defined therein) party thereto, the Tranche 2 Incremental Term A-2021 Lenders (as defined therein) party thereto and the Administrative Agent, as such agreement is in effect on February 16, 2021.

“Incremental Term A-2021 Loans” has the meaning set forth in the Incremental Term Loan A Facility Agreement, dated as of February 16, 2021, among the Company, the other Loan Parties party thereto, the Tranche 1 Incremental Term A-2021 Lenders (as defined therein) party thereto, the Tranche 2 Incremental Term A-2021 Lenders (as defined therein) party thereto and the Administrative Agent, as such agreement is in effect on February 16, 2021.

“Incremental Term Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant an Incremental Facility Agreement and Section 2.20, to make Incremental Term Loans of any Series hereunder, expressed as an amount representing the maximum principal amount of the Incremental Term Loans of such Series to be made by such Lender.

“Incremental Term Facility” means an incremental term loan facility established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Term Commitments.

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

“Incremental Term Loan” means a Loan made by an Incremental Term Lender to the Company pursuant to Section 2.20.

“Incremental Term Maturity Date” means, with respect to Incremental Term Loans of any Series, the scheduled date on which such Incremental Term Loans shall become due and payable in full hereunder, as specified in the applicable Incremental Facility Agreement.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (excluding trade accounts payable incurred in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services, excluding current accounts payable incurred in the ordinary course of business, (e) all Capital Lease Obligations and Synthetic Lease Obligations of such Person, (f) the maximum aggregate amount of all letters of credit and letters of guaranty in respect of which such Person is an account party (x) supporting Indebtedness or (y) obtained for any purpose not in the ordinary course of business, (g) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (h) all Disqualified Equity Interests in such Person, valued, as of the date of determination, at the

greater of (i) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Equity Interests or Indebtedness into which such Disqualified Equity Interests are convertible or exchangeable) and (ii) the maximum liquidation preference of such Disqualified Equity Interests, (i) all Third Party Interests in respect of Permitted Receivables Facilities of such Person or its subsidiaries except to the extent that such Indebtedness would not appear as a liability upon a balance sheet (other than in the footnotes to financial statements) of such Person prepared in accordance with GAAP, (j) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person (if such Person has not assumed such Indebtedness of others, then the amount of Indebtedness of such Person shall be the lesser of (A) the amount of such Indebtedness of others and (B) the fair market value of such property, as reasonably determined by such Person) and (k) all Guarantees by such Person of Indebtedness of others. The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such other Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“Indemnified Institution” has the meaning set forth in Section 9.03(b).

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

“Indemnitee” has the meaning set forth in Section 9.03(b).

“Initial Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make an Initial Term Loan on the Effective Date, expressed as an amount representing the maximum principal amount of the Initial Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Initial Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Initial Term Commitment, as applicable. The initial aggregate amount of the Lenders' Initial Term Commitments as of the Effective Date is \$350,000,000.

“Initial Term Lender” means a Lender with an Initial Term Commitment or an outstanding Initial Term Loan.

“Initial Term Loan” means a Loan made pursuant to clause (a) of Section 2.01.

“Intellectual Property” means all intellectual and similar property of every kind and nature now owned or hereafter acquired by the Company or any Subsidiary, including inventions, designs, patents, copyrights, trademarks, trade secrets, domain names, confidential or

proprietary technical and business information, know-how, show-how or other similar data or information, software and databases and all embodiments or fixations thereof and related documentation, all additions, improvements and accessions to any of the foregoing and all registrations for any of the foregoing.

“Intercompany Permitted Receivables Facility Note” means any promissory note or debt obligations issued or incurred by a Receivables Subsidiary in consideration or partial consideration for the acquisition of Receivables from the Company or any Subsidiary in a Permitted Receivables Facility permitted hereunder.

“Interest Election Request” means a written request by the applicable Borrower, or the Borrower Agent on its behalf, to convert or continue a Revolving Borrowing or Term Borrowing in accordance with Section 2.06, which shall be substantially in the form of Exhibit F or any other form approved by the Administrative Agent.

“Interest Payment Date” means (a) with respect to any ABR Loan, the last day of each March, June, September and December, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, such day or days prior to the last day of such Interest Period as shall occur at intervals of three months’ duration after the first day of such Interest Period.

“Interest Period” means, with respect to ~~(x)~~ any Eurocurrency Borrowing of Incremental Term A-2021 Loans or Revolving Loans, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter and (y) any other Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on (i) the seventh day thereafter or (ii) the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or, if agreed to by each Lender participating therein, twelve months thereafter), as the applicable Borrower, or the Borrower Agent on its behalf, may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of Interest Periods referred to in clause ~~(x)~~ or (y)(ii) above, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period referred to in clause ~~(x)~~ or (y)(ii) that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interests” means, with respect to any Person, any Equity Interests, Indebtedness or any other debt or equity interests in such Person, including in the case of a Receivables Subsidiary, if applicable, any Intercompany Permitted Receivables Facility Notes or Third Party Interests.

“Interpolated Screen Rate” means, at any time, with respect to any currency, at any time for any Interest Period, or with respect to any determination of the Alternate Base Rate pursuant to clause (c) of the definition thereof, the rate per annum (rounded to the same number of decimal places as the Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Screen Rate for the longest period for which that Screen Rate is available for the applicable currency that is shorter than the Impacted Interest Period and (b) the applicable Screen Rate for the shortest period for which that Screen Rate is available for the applicable currency that exceeds the Impacted Interest Period, in each case, at such time; **provided that, solely in the case of Incremental Term A-2021 Loans and Revolving Loans, if any Interpolated Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.**

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness or other obligations of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any date of determination, of (i) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing a payment or prepayment of in respect of principal of such Investment, but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (ii) any Investment in the form of a Guarantee shall be the amount determined in accordance with the definition of “Guarantee” herein, (iii) any Investment in the form of a transfer of Equity Interests or other non-cash property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair market value (as determined in good faith by a Financial Officer) of such Equity Interests or other property as of the time of the transfer, minus any payments actually received by such investor representing a return of capital of (but not any dividends or other distributions in respect of return on the capital of) such Investment, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment and (iv) any Investment (other than any Investment referred to in clause (i), (ii) or (iii) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment (including any Indebtedness assumed in connection therewith), plus (A) the cost of all additions thereto and minus (B) the amount of any portion of such Investment that has been repaid to the investor in cash as a repayment of principal or a return of capital, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment.

“Investment Grade Date” means the first date on which the Company achieves an Investment Grade Rating.

“Investment Grade Rating” means either (i) a corporate credit rating from S&P of at least BBB- and a corporate family rating from Moody’s of at least Ba1, in each case with a stable or better outlook, or (ii) a corporate family rating from Moody’s of at least Baa3 and a corporate credit rating from S&P of at least BB+, in each case with a stable or better outlook.

“IP Security Agreements” has the meaning set forth in the Collateral Agreement.

“IP Subsidiary” means any Subsidiary that at any time owns any Intellectual Property or rights to Intellectual Property that are material to the business or operations of the Company and the Subsidiaries, taken as a whole.

“Irish Borrower” means any Borrower (i) that is incorporated under the laws of Ireland or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of Ireland.

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

(a) a bank within the meaning of section 246(3)(a) of the TCA which is carrying on a bona fide banking business in Ireland for the purposes of section 246(3)(a) of the TCA and whose applicable lending office is located in Ireland;

(b) [reserved]; or

(c) a body corporate:

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

(ii) where the interest payable:

(A) (A) is exempted from the charge to income tax by arrangements that have the force of law under the procedures set out in section 826(1) of the TCA; or

(B) (B) would be exempted from the charge to income tax if arrangements made on or before the date of payment of the interest that do not have the force of law under procedures set out in section 826(1) of the TCA had the force of law when the interest was paid,

provided that interest payable to such company in respect of an advance under a Loan Document is not paid to that company in connection with a trade or business which is carried on in Ireland by that company through a branch or agency;

(d) a U.S. corporation that is incorporated in the U.S. and is subject to tax in the US on its worldwide income provided that interest payable to such U.S. corporation is not paid in connection with a trade or business which is carried on in Ireland by that U.S. corporation through a branch or agency;

(e) a U.S. limited liability company (“LLC”); provided that the ultimate recipients of the interest would be Irish Qualifying Lenders within paragraphs (c) or (d) of this definition and the business conducted through the LLC is so structured for market reasons and not for tax avoidance purposes and the ultimate recipients of the relevant interest do not provide their commitment in connection with a trade or business which is carried on in Ireland through a branch or agency;

(f) a body corporate:

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

(ii) in whose hands any interest payable in respect of monies so advanced is taken into account in computing the trading income of such company; and

(iii) which:

(A) has complied with the notification requirements under section 246(5)(a) of the TCA; and

(B) has provided the Borrowers with its tax reference number (within the meaning of section 885 of the TCA);

and whose applicable lending office is located in Ireland;

(g) a qualifying company (within the meaning of section 110 of the TCA) and whose applicable lending office is located in Ireland;

(h) an investment undertaking within the meaning of section 739B of the TCA and whose applicable lending office is located in Ireland;

(i) an exempt approved scheme within the meaning of section 774 of the TCA and whose applicable lending office is located in Ireland; or

(j) an Irish Treaty Lender.

“Irish Treaty Lender” means a Lender which is treated as a resident of an Irish Treaty State for the purposes of an Irish Treaty, does not carry on a business in Ireland through a

branch or agency with which that Lender's participation in the Loan Document is directly or indirectly connected and, subject to the completion of procedural formalities, meets all other conditions under the Irish Treaty for full exemption from tax imposed by Ireland on interest.

“Irish Treaty State” means a jurisdiction having a double taxation agreement with Ireland (an “Irish Treaty”) which makes provision for full exemption from tax imposed by Ireland on interest and has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“IRS” means the United States Internal Revenue Service.

“ISDA CDS Definitions” has the meaning set forth in Section 9.02(e).

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

“Issuing Bank” means (a) JPMorgan Chase Bank, N.A., (b) Bank of America, N.A., (c) Wells Fargo Bank, National Association, (d) MUFG Bank, Ltd., (e) PNC Bank, National Association, (f) Royal Bank of Canada, (g) Suntrust Bank, (h) Capital One, National Association and (i) each Revolving Lender that shall have become an Issuing Bank hereunder as provided in Section 2.04(j) (other than any Person that shall have ceased to be an Issuing Bank as provided in Section 2.04(k)), each in its capacity as an issuer of Letters of Credit hereunder. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.04 with respect to such Letters of Credit).

“Judgment Currency” has the meaning set forth in Section 9.21(b).

“Junior Indebtedness” means any Indebtedness that is subordinated in right of payment to the Loan Document Obligations.

“LC Commitment” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank's LC Commitment is set forth on Schedule 2.01, or if an Issuing Bank has entered into an Assignment and Assumption or became an Issuing Bank pursuant to an agreement designating it as contemplated by Section 2.04(j), the amount set forth for such Issuing Bank as its LC Commitment in the Register maintained by the Administrative Agent or in such agreement.

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

“LC Exposure” means, at any time, the sum of (a) the aggregate of the Dollar Equivalents of all Letters of Credit that remain available for drawing at such time and (b) the aggregate of the Dollar Equivalents of the amounts of all LC Disbursements that have not yet been reimbursed by or on behalf of the applicable Borrowers at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“LC Fee” has the meaning set forth in Section 2.11(b).

**“Lender-Related Person” means the Administrative Agent, any Arranger, any Co-Syndication Agent, any Co-Documentation Agent, any Issuing Bank and any Lender, and any Related Party of any of the foregoing Persons.**

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or an Incremental Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption.

“Letter of Credit” means any standby letter of credit issued pursuant to this Agreement, other than any such letter of credit that shall have ceased to be a “Letter of Credit” outstanding hereunder pursuant to Section 9.05.

“Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Leverage Ratio Increase Amount” means, with respect to any new incurrence of Pension Funding Indebtedness on any date, the ratio (rounded upwards, if necessary, to the next 1/10), expressed as a decimal, of (a) the aggregate principal amount of such Pension Funding Indebtedness incurred on such date to (b) the greater of (i) Consolidated EBITDA for the most recently ended period of four consecutive fiscal quarters of the Company and (ii) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company ended on March 31, 2013.

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

“LIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in Dollars or in Sterling for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the LIBO Rate shall be the Interpolated Screen Rate with respect to such currency as of the Specified Time on the Quotation Day; and provided, further, that if the LIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, charge, assignment by way of security, security interest or other



encumbrance on, in or of such asset, including any arrangement entered into for the purpose of making particular assets available to satisfy any Indebtedness or other obligation, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or Synthetic Lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Limited Condition Acquisition” means any Permitted Acquisition or other Investment permitted by this Agreement with respect to which the consummation of such Permitted Acquisition or other Investment by the Company or any Subsidiary is not conditioned on the availability of, or on obtaining, third party financing.

“Loan Document Obligations” has the meaning set forth in the Collateral Agreement.

“Loan Documents” means this Agreement, the Incremental Facility Agreements, the Loan Modification Agreements, the Collateral Agreement, the other Security Documents, any letter of credit applications, any agreements between any Borrower and any Issuing Bank regarding such Issuing Bank’s LC Commitment or the respective rights and obligations between each applicable Borrower and such Issuing Bank in connection with the issuance of Letters of Credit, any agreement designating an additional Issuing Bank as contemplated by Section 2.04(j) and, except for purposes of Section 9.02, any promissory notes delivered pursuant to Section 2.08(c).

“Loan Modification Agreement” means a Loan Modification Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Accepting Lenders, effecting one or more Permitted Amendments and such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.21.

“Loan Modification Offer” has the meaning set forth in Section 2.21(a).

“Loan Parties” means each Borrower and each Subsidiary Loan Party.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“Local Time” means (a) with respect to a Dollar-denominated Borrowing or Letter of Credit, New York City time, and (b) with respect to a Euro-denominated or Sterling denominated Borrowing or Letter of Credit, London time.

“Long-Term Indebtedness” means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

“Majority in Interest”, when used in reference to Lenders of any Class, means, at any time, (a) in the case of the Revolving Lenders, Lenders having Revolving Exposures and

unused Revolving Commitments representing more than 50% of the sum of the Aggregate Revolving Exposures and the unused Aggregate Revolving Commitment at such time and (b) in the case of the Term Lenders of any Class, Lenders holding outstanding Term Loans or Term Commitments of such Class representing more than 50% of all Term Loans and Term Commitments of such Class outstanding at such time.

“Managing Arranger” means (a) with respect to the revolving credit facility provided for herein, J.P. Morgan Chase Bank, N.A., in its capacity as the “left placement” lead arranger and bookrunner and (b) with respect to the term loan credit facilities provided for herein, BofA Securities, Inc., in its capacity as the “left placement” lead arranger and bookrunner.

“Mark-to-Market Pension Accounting” means an accounting methodology, as set forth in Annex A, that records actuarial gains and losses on Plans and Foreign Pension Plans in the year incurred rather than amortizing such gains and losses over time.

“Material Acquisition” means any acquisition, or a series of related acquisitions, of (a) Equity Interests in any Person (other than an existing Subsidiary of the Company) if, after giving effect thereto, such Person will become a Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person (other than an existing Subsidiary of the Company); provided that the aggregate consideration therefor (including Indebtedness assumed in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or financial condition of the Company and the Subsidiaries, taken as a whole, (b) the ability of the Company and the other Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents.

“Material Disposition” means any Disposition, or a series of related Dispositions, of (a) all or substantially all the issued and outstanding Equity Interests in any Person that are owned by the Company or any Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed by the transferee in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Indebtedness” means Indebtedness (other than the Loans, Letters of Credit and Guarantees under the Loan Documents), or obligations in respect of one or more Hedging Agreements, of any one or more of the Company and the Subsidiaries in an aggregate principal amount of \$150,000,000 or more. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Material Subsidiary” means (i) each IP Subsidiary, (ii) each Domestic Subsidiary that has become a Designated Subsidiary pursuant to a designation by the Company under Section 5.03(b), (iii) any Domestic Subsidiary that directly owns or holds Equity Interests of any Foreign Subsidiary or CFC Holdco that is a Material Subsidiary, (iv) each Domestic Subsidiary (a) the consolidated total assets of which (excluding assets of, and investments in, Foreign Subsidiaries) equal 5% or more of the consolidated total assets of the Company (excluding assets of, and investments in, Foreign Subsidiaries) or (b) the consolidated revenues of which (excluding consolidated revenues attributable to Foreign Subsidiaries) account for 5% or more of the consolidated revenues of the Company (excluding consolidated revenues attributable to Foreign Subsidiaries), and (v) any Foreign Subsidiary or CFC Holdco (a) the consolidated total assets of which equal 5% or more of the consolidated total assets of the Company or (b) the consolidated revenues of which accounts for 5% or more of the consolidated revenues of the Company, in each case as of the end of or for the most recent period of four consecutive fiscal quarters of the Company for which financial statements have been delivered pursuant to Sections 5.01(a) or 5.01(b); provided that if at the end of or for any such most recent period of four consecutive fiscal quarters the combined consolidated total assets or combined consolidated revenues of all Subsidiaries that would not constitute Material Subsidiaries shall exceed 15% of the consolidated total assets of the Company or 15% of the consolidated revenues of the Company, then one or more of such Subsidiaries shall for all purposes of this Agreement be deemed to be Material Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated revenues, as the case may be, until such excess shall have been eliminated.

“Maturity Date” means the Term Maturity Date, the Incremental Term Maturity Date with respect to Incremental Term Loans of any Series or the Revolving Maturity Date, as the context requires.

“Maximum Rate” has the meaning set forth in Section 9.13.

“MNPI” means material information concerning the Company and the Subsidiaries and their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act.

“Moody’s” means Moody’s Investors Service, Inc., and any successor to its rating agency business.

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

“NCR Manaus” means NCR BRASIL – INDÚSTRIA DE EQUIPAMENTOS PARA AUTOMAÇÃO S.A., a Brazilian corporation.

“NCR Manaus Holdco” means any Subsidiary that directly owns or holds any Equity Interest in NCR Manaus.

“Net Proceeds” means, with respect to any event, (a) the cash (which term, for purposes of this definition, shall include Permitted Investments) proceeds (including, in the case of any casualty, condemnation or similar proceeding, insurance, condemnation or similar proceeds) received in respect of such event, including any cash received in respect of any noncash proceeds, but only as and when received, net of (b) the sum, without duplication, of (i) all fees and out-of-pocket expenses paid in connection with such event by the Company and the Subsidiaries, (ii) in the case of a Disposition (including pursuant to a Sale/Leaseback Transaction or a casualty or a condemnation or similar proceeding) of an asset, (A) the amount of all payments required to be made by the Company and the Subsidiaries as a result of such event to repay Indebtedness (other than Loans) secured by such asset and (B) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (B)) attributable to minority interests and not available for distribution to or for the account of the Company and the Subsidiaries as a result thereof and (iii) the amount of all taxes paid (or reasonably estimated to be payable) by the Company and the Subsidiaries and the amount of any reserves established by the Company and the Subsidiaries in accordance with GAAP to fund purchase price adjustment, indemnification and similar contingent liabilities (other than any earnout obligations) reasonably estimated to be payable and that are directly attributable to the occurrence of such event (as determined reasonably and in good faith by the chief financial officer of the Company). For purposes of this definition, in the event any contingent liability reserve established with respect to any event as described in clause (b)(iii) above shall be reduced, the amount of such reduction shall, except to the extent such reduction is made as a result of a payment having been made in respect of the contingent liabilities with respect to which such reserve has been established, be deemed to be receipt, on the date of such reduction, of cash proceeds in respect of such event.

“Net Short Lender” has the meaning set forth in Section 9.02(e).

“Net Working Capital” means, at any date, (a) the consolidated current assets of Company and its consolidated Subsidiaries as of such date (excluding cash and Permitted Investments) minus (b) the consolidated current liabilities of Company and its consolidated Subsidiaries as of such date (excluding current liabilities in respect of Indebtedness). Net Working Capital at any date may be a positive or negative number. Net Working Capital increases when it becomes more positive or less negative and decreases when it becomes less positive or more negative.

“Non-Cash Charges” means any noncash charges, including (a) any write-off for impairment of long lived assets including goodwill, intangible assets and fixed assets such as property, plant and equipment, and investments in debt and equity securities pursuant to GAAP,

(b) non-cash expenses resulting from the grant of stock options, restricted stock awards or other equity-based incentives to any director, officer or employee of the Company or any Subsidiary (excluding any cash payments of income taxes made for the benefit of any such Person in consideration of the surrender of any portion of such options, stock or other incentives upon the exercise or vesting thereof) and (c) any non-cash charges resulting from the application of purchase accounting; provided that Non-Cash Charges shall not include additions in the ordinary course of business to bad debt reserves or bad debt expense, any non-cash charge in the ordinary course of business that results from the write-down or write-off of inventory and any noncash charge that results from the write-down or write-off in the ordinary course of business of accounts receivable or that is taken in the ordinary course of business in respect of any other item that was included in Consolidated Net Income in a prior period.

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

“Non-Investment Grade Date” means the first date, following an Investment Grade Date, on which the Company does not have an Investment Grade Rating.

“Non-Investment Grade Period” means (a) the period commencing on and including the Effective Date to but excluding the first Investment Grade Date, and (b) each period commencing on and including each subsequent Non-Investment Grade Date to but excluding the next succeeding Investment Grade Date.

“Non-Significant Subsidiary” means any Subsidiary that is not a Foreign Borrower, a Subsidiary Loan Party or a Material Subsidiary.

“Notes” means senior unsecured (except as contemplated by the definition of “Permitted Escrow Transactions”) notes of the Company or a Permitted Escrow Subsidiary issued and sold to provide a portion of the cash consideration payable for any other Permitted Material Acquisition.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“NYFRB’s Website” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“Obligations” has the meaning set forth in the Collateral Agreement.

“Original Effective Date” means July 25, 2013.

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

“Other Taxes” means any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment under Section 2.18(b)).

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on ~~its public website~~ [the NYFRB’s Website](#) from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Overnight Eurocurrency Rate” means, for any day, (a) in respect of any Sterling-denominated amount, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for Sterling for an overnight borrowing as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, on such day and (b) in respect of any Euro-denominated amount, the Euro interbank offered rate administered by the European Money Markets Institute (or any other Person that takes over the administration of that rate) for an overnight borrowing as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion); and provided further that if the Overnight Eurocurrency Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Participant Register” has the meaning set forth in Section 9.04(c)(i).

“Participants” has the meaning set forth in Section 9.04(c)(i).

“Party” has the meaning set forth in Section 2.16(k)(i).

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

“Pension Funding Indebtedness” means any Long-Term Indebtedness (other than Indebtedness utilizing the Revolving Commitments or any other revolving or temporary debt facility) permitted under Section 6.01 incurred on or after the Original Effective Date by the Company, any Guarantor or any Subsidiary located in Japan, Germany, the United Kingdom or Switzerland to the extent the proceeds of such Indebtedness are used (i) not later than the 60th day (in respect of contributions to Plans) and not later than the 120th day (in respect of contributions to Foreign Pension Plans) after the receipt of such proceeds (as such time periods may be extended by the Administrative Agent in its sole discretion to accommodate regulatory requirements, obtaining governmental consents or approvals, or obtaining consents or approvals of trustees or plan administrators), to make contributions to one or more Plans and/or Foreign Pension Plans existing on the Original Effective Date that reduce the amount of then-existing unfunded liabilities of such Plan, Foreign Pension Plan, Plans or Foreign Pension Plans, or (ii) to refinance Revolving Loans or other temporary Indebtedness (which will not constitute Pension Funding Indebtedness) the proceeds of which were previously used for the purposes set forth in clause (i); provided that the issuance of such Pension Funding Indebtedness and the use of proceeds thereof to refinance such Revolving Loans or other temporary Indebtedness occurs within one-year after the date of incurrence of such Revolving Loans or other temporary Indebtedness; provided, however, that Pension Funding Indebtedness will not in any event include any such Indebtedness the proceeds of which are used to fund (or to refinance Revolving Loans or other temporary Indebtedness the proceeds of which were used to fund) ongoing annual expenses of any such Plan or Foreign Pension Plan (other than ongoing annual expenses paid out of the assets of any such Plan or Foreign Pension Plan). It is understood and agreed that the Term Loans hereunder, including those made on the Effective Date, will constitute Pension Funding Indebtedness to the extent the proceeds thereof have been used in accordance with the foregoing definition (provided that, notwithstanding the foregoing definition, \$80,000,000 of the Term Loans borrowed hereunder, the proceeds of which Term Loans were used to refinance term loans borrowed under the Existing Credit Agreement, shall be deemed Pension Funding Indebtedness).

“Perfection Certificate” means a certificate substantially in the form of Exhibit G or any other form approved by the Administrative Agent.

“Performance Support Instrument” means (a) a performance bond or performance guarantee or a letter of credit (other than a Letter of Credit) issued in lieu of a performance bond or performance guarantee, in each case for the account of and to support the performance obligations of a Foreign Subsidiary, or (b) a letter of credit (other than a Letter of Credit) issued to support obligations of the Company or any Subsidiary permitted pursuant to Section 6.01(ix)(x).

“Permitted Acquisition” means the purchase or other acquisition (including pursuant to two-step transaction such as a tender offer followed by a merger) by the Company or any Subsidiary of substantially all the Equity Interests in, or all or substantially all the assets of

(or all or substantially all the assets constituting a business unit, division, product line or line of business of), any Person; provided that (i) such purchase or acquisition was not preceded by, or consummated pursuant to, an unsolicited tender offer or proxy contest initiated by or on behalf of the Company or any Subsidiary, (ii) all transactions related thereto are consummated in accordance with applicable law, (iii) the business of such Person, or such assets, as the case may be, constitute a business permitted under Section 6.03(b), (iv) with respect to each such purchase or other acquisition, all actions required to be taken with respect to each newly created or acquired Subsidiary or assets in order to satisfy the requirements set forth in the definition of the term “Collateral and Guarantee Requirement” shall have been taken (or arrangements for the taking of such actions satisfactory to the Administrative Agent shall have been made) and (v) at the time of and immediately after giving effect to any such purchase or other acquisition, (A) no Default shall have occurred and be continuing or would result therefrom (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (A) shall be limited to that there not have occurred and be continuing any Event of Default under clause (a) or (b) of Article VII or any Event of Default with respect to any Borrower under clause (i) or (j) of Article VII, in each case, at the signing of the definitive agreement to consummate such Limited Condition Acquisition and at the closing thereof), (B) the Leverage Ratio calculated on a Pro Forma Basis giving effect to such purchase or acquisition shall be not more than the then applicable ratio under Section 6.12 for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b) (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (B) may, at the Company’s option, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof) and (C) in the case of such a purchase or other acquisition for consideration in excess of \$75,000,000, the Company shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Company, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all the requirements set forth in this definition have been satisfied with respect to such purchase or other acquisition, together with reasonably detailed calculations demonstrating satisfaction of the requirement set forth in clause (v)(B) above.

“Permitted Additional Indebtedness” means Indebtedness of the Company or any Subsidiary Loan Party that (i) except as otherwise permitted under Section 6.02(a)(xvii), is not secured by any collateral (including the Collateral), (ii) except with respect to up to \$750,000,000 in the aggregate of Permitted Additional Indebtedness, does not mature earlier than, and has a weighted average life to maturity (determined without giving effect to any prepayments that reduce amortization) no earlier than, 91 days after the Term Maturity Date,, (iii) does not provide for any amortization, mandatory prepayment, mandatory redemption or mandatory repurchase (other than upon (x) an asset sale, so long as such requirements permit the prior prepayment of the Term Borrowings with the Net Proceeds of such asset sale, or (y) a change of control) prior to the date that is 91 days after the Term Maturity Date and (iv) is not guaranteed by any Subsidiary that is not a Subsidiary Loan Party (unless it becomes a Subsidiary Loan Party in connection with such transaction); provided that, (a) notwithstanding any failure of any Senior Bridge Loans (or any extended term loans or exchange notes into or for which such Senior Bridge Loans may be converted or exchanged in accordance with the terms thereof) to comply with the requirements set forth in clauses (ii) and (iii) of this definition, such Senior



Bridge Loans (and such extended term loans and exchange notes) shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as (x) such Senior Bridge Loans do not mature prior to the first anniversary of the closing date of the applicable Permitted Material Acquisition and the definitive documentation governing the Senior Bridge Facility contains provisions requiring, on or prior to such maturity date, automatic conversion of the Senior Bridge Loans into extended term loans (and permitting exchange of the Senior Bridge Loans for exchange notes), in each case having a maturity and weighted average life to maturity that comply with the requirements of clause (ii) of this definition, (y) the definitive documentation governing the Senior Bridge Facility (or such extended term loans or exchange notes, as applicable) does not require mandatory prepayment of or any mandatory offer to prepay or repurchase the Senior Bridge Loans (or such extended term loans or exchange notes, as applicable) other than from (I) the Net Proceeds of sales of Equity Interests of the Company and (II) to the extent not required to be applied to the prepayment of Term Borrowings, reinvested or utilized to effect Permitted Acquisitions pursuant to Section 2.10(c), from asset sales or incurrences of Indebtedness by the Company and its Subsidiaries, and (z) the terms of the Senior Bridge Loans (and such extended term loans and exchange notes) otherwise comply with the requirements of clauses (i) and (iv) of this definition and (b) in the event that any Notes are issued in connection with a Permitted Material Acquisition prior to the date of consummation of such Permitted Material Acquisition, notwithstanding any failure of such Notes to comply with the requirements set forth in clauses (i) and (iii) of this definition solely as a result of the Permitted Escrow Transactions with respect to such Notes and the requirement to prepay or repurchase such Notes with the applicable Permitted Escrow Funds in accordance with the requirements of the proviso in Section 6.02(a)(xxi) hereof, such Notes shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as the terms of such Notes otherwise comply with the requirements of this definition. The term “Permitted Additional Indebtedness” shall include the guarantees of Permitted Additional Indebtedness by Subsidiaries that are Subsidiary Loan Parties.

“Permitted Amendment” means an amendment to this Agreement and the other Loan Documents, effected in connection with a Loan Modification Offer pursuant to Section 2.21, providing for an extension of the Maturity Date applicable to the Loans and/or Commitments of the Accepting Lenders and, in connection therewith, (a) a change in the Applicable Rate with respect to the Loans and/or Commitments of the Accepting Lenders and/or (b) a change in the fees payable to, or the inclusion of new fees to be payable to, the Accepting Lenders.

“Permitted Cash Pooling Arrangement” means a cash management and deposit pooling agreement with a banking entity relating solely to deposit accounts of Foreign Subsidiaries and providing for temporary overdrafts to finance working capital needs of Foreign Subsidiaries, the pooling of funds of Foreign Subsidiaries deposited in linked deposit accounts to repay such overdrafts and the grant of Liens and setoff rights with respect to such deposited funds and linked deposit accounts to secure the repayment of such overdrafts and the payment of related interest and fees to such banking entity; provided that the obligations under any Permitted Cash Pooling Arrangements are not secured by Liens (including set off rights) on or with respect to any assets of the Company or any Loan Party.

“Permitted Encumbrances” means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.06;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code), arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.06;

(c) pledges and deposits made or Liens imposed (i) in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations or other public statutory obligations and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(d) assignments by way of security, pledges and deposits made or Liens imposed (i) to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(e) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Company or any Subsidiary;

(f) banker’s liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions; provided that such deposit accounts or funds are not established or deposited for the purpose of providing collateral for any Indebtedness and are not subject to restrictions on access by the Company or any Subsidiary in excess of those required by applicable banking regulations;

(g) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases entered into by the Company and the Subsidiaries in the ordinary course of business;

(h) Liens securing or otherwise arising from judgments not constituting an Event of Default under clause (l) of Article VII;

(i) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the property subject to any lease, license or sublicense or concession agreement permitted by this Agreement; and

(j) Liens created pursuant to the general conditions of a bank operating in the Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*);

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness other than Liens referred to in clauses (c) and (d) above securing obligations under letters of credit or bank guarantees.

"Permitted Escrow Funds" means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, the sum of (a) the aggregate cash proceeds received by the Company or a Permitted Escrow Subsidiary from the issuance and sale of such Notes, plus (b) cash in an amount equal to interest accruing on such Notes for the escrow period provided in the escrow agreement applicable to such Notes.

"Permitted Escrow Subsidiary" means a wholly-owned limited purpose Subsidiary of the Company formed solely for the purposes of, and that solely engages in, the issuance of Notes and the Permitted Escrow Transactions with respect to such Notes in connection with a Permitted Material Acquisition; provided that such Permitted Escrow Subsidiary (a) has no assets or liabilities other than (i) cash and Permitted Investments constituting Permitted Escrow Funds with respect to the applicable Notes and (ii) obligations under the applicable Notes or otherwise arising out of the Permitted Escrow Transactions with respect to such Notes and (b) is merged into or consolidated with the Company (with the Company as the surviving Person) substantially contemporaneously with the consummation of such Permitted Material Acquisition, with the Company assuming such Permitted Escrow Subsidiary's obligations under the applicable Notes upon consummation of such merger or consolidation.

"Permitted Escrow Transactions" means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, (a) the establishment by the Company or a Permitted Escrow Subsidiary of a segregated escrow account under the sole control of the trustee for such Notes or other escrow agent reasonably acceptable to the Administrative Agent, in each case pursuant to an escrow agreement reasonably acceptable to the Administrative Agent, which shall provide for the termination of such escrow and the discharge and release of the related Liens permitted by clause (c) below upon the earliest to occur of the events specified in the proviso in Section 6.02(a)(xxi) hereof, (b) the depositing of the Permitted Escrow Funds with respect to such Notes into such escrow account substantially contemporaneously with the issuance of such Notes and (c) the granting by the Company or a Permitted Escrow Subsidiary of a Lien on such escrow account and the Permitted Escrow Funds deposited therein (and any earnings thereon) in favor of the trustee for such Notes, for the ratable benefit of the holders of such Notes.

“Permitted Investments” means Investments in cash equivalents, short-term debt obligations, bank deposits, and other debt and equity securities and obligations that, in each case, constitute “Eligible Securities” under, and otherwise comply with the requirements of, the Company’s current policy on cash and investments set forth on Schedule 1.01B hereto.

“Permitted IP Transfer” means (i) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of Radiant Systems, Inc. and its Subsidiaries or any other Person acquired by the Company after the Original Effective Date, in each case to NCR (Bermuda) Holdings LTD, or another Foreign Subsidiary complying with the requirements of clause (x) below and for consideration that may include promissory notes payable over a period not in excess of 10 years and (ii) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of the Company or any Domestic Subsidiary to a Foreign Subsidiary; provided that, in the case of sales under this clause (ii), (a) any such sale is made for cash consideration paid by the acquiring Foreign Subsidiary to the Company or such Domestic Subsidiary, as the case may be, at the time of transfer in an amount not less than the fair market value of the Intellectual Property transferred; provided that up to \$35,000,000 of such consideration in the aggregate for all Permitted IP Transfers under this clause (ii) may consist of promissory notes that are required to be paid in full not later than the Term Maturity Date and up to \$10,000,000 of such consideration may consist of the issuance of Equity Interests of Foreign Subsidiaries and (b) the aggregate, cumulative fair market value of all such transferred Intellectual Property shall not exceed the greater of (1) \$100,000,000 and (2) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and provided, further, that in the case of all sales under clause (i) and (ii) of this definition, (x) the acquiring Foreign Subsidiary shall be (A) a Subsidiary of up to, but not including 66 $\frac{2}{3}$ % (and in any event at least 65%) of the outstanding voting Equity Interests, and all other Equity Interests, of which shall have been pledged pursuant to the Collateral Agreement or, where the Administrative Agent shall have so reasonably requested in accordance with the Collateral and Guarantee Requirement, a Foreign Pledge Agreement or (B) a direct or indirect wholly owned subsidiary of one or more Foreign Subsidiaries of the type described in the preceding clause (A) or Subsidiary Loan Parties, (y) no Liens (other than Permitted Encumbrances and Liens in favor of the Administrative Agent, for the benefit of the Secured Parties) shall exist on any such transferred Intellectual Property at the time of its transfer and (z) any license (including any license providing for a declining royalty) of such Intellectual Property or of rights to use such Intellectual Property entered into with or Guaranteed by the Company or any Subsidiary shall be on arms-length terms no less favorable to the Company or such Subsidiary than could be obtained in a transaction with an unaffiliated third party, as determined in good faith by the Company.

“Permitted Leverage Ratio” means

(a) prior to the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to March 31, 2021, (A) the sum of 4.50 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, (ii) in the case of any fiscal quarter ending after March 31, 2021, and on or prior to March 31, 2023, (A) the sum of 4.25 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, and (iii) in the case of any fiscal quarter ending after March 31, 2023, (A) the sum of 4.00 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00; provided that, following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters; provided, further, that, notwithstanding the foregoing, prior to the date of the consummation of the Specified Acquisition, the maximum Permitted Leverage Ratio, inclusive of all increases as a result of the Cumulative Leverage Ratio Increase Amount or any adjustment in connection with a Material Acquisition, shall at no time exceed 4.75 to 1.00; and

(b) from and after the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to December 31, 2021, 5.50 to 1.00, (ii) in the case of any fiscal quarter ending on or prior to September 30, 2022, 5.25 to 1.00, and (iii) in the case of any fiscal quarter ending on or after December 31, 2022, 4.75 to 1.00; provided that, solely in the case of this clause (iii), following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 to 5.00 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters.

“Permitted Material Acquisition” means a Permitted Acquisition that is a Material Acquisition.

“Permitted Receivables Facility” means one or more facilities or individual transactions consisting of transfers on one or more occasions by the Company or any of its Subsidiaries (including through a Receivables Subsidiary) to any third-party buyer, purchaser or lender of interests in Receivables (including collections thereof and any related assets), so long as the sum of the aggregate outstanding principal amount of Third Party Interests incurred pursuant to such facilities or transactions and the principal amount of Receivables transferred and outstanding to any third-party buyer or purchaser does not exceed the greater of (x) \$500,000,000 and (y) 37.5% of the book value of the Company’s and its consolidated Subsidiaries’ Receivables as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof at any one time;

provided, that (a) no portion of the Indebtedness or any other obligation (contingent or otherwise) under such Permitted Receivables Facility shall be guaranteed by the Company or any of its Subsidiaries except as permitted by the following clause (b), (b) there shall be no recourse or obligation to the Company or any of its Subsidiaries whatsoever other than (x) recourse solely attributable to any applicable Standard Receivables Undertakings and (y) recourse solely against the Company's or such Subsidiaries' retained interest in the Receivables Subsidiary which finances the acquisition of the relevant Receivables or residual values related thereto and (c) neither the Company nor any of its Subsidiaries shall have provided, either directly or indirectly, any credit support of any kind in connection with such Permitted Receivables Facility other than as set forth in clause (b) of this definition.

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

“Plan” means any “employee pension benefit plan”, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA and in respect of which the Borrower or any of its ERISA Affiliates is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” has the meaning set forth in Section 9.01(d).

“Pledge Agreement” has the meaning set forth in the Collateral Agreement.

“Pledge Effectiveness Period” means (i) the period commencing on the Effective Date (as defined in the Existing Credit Agreement) and ending on the first Investment Grade Date thereafter on which no Term Loans are outstanding and (ii) each subsequent period commencing on a Non-Investment Grade Date and ending on the next following Investment Grade Date.

“Post-Acquisition Period” means, with respect to any Material Acquisition or any Material Disposition, the period beginning on the date such transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such transaction is consummated.

“Prepayment Event” means:

(a) any Disposition (including pursuant to a Sale/Leaseback Transaction or by way of merger or consolidation) of any asset of the Company or any Subsidiary, including any sale or issuance to a Person other than the Company or any Subsidiary of Equity Interests in any Subsidiary, other than (i) Dispositions described in clauses (a) through (h) of Section 6.05, (ii) the Scheduled Dispositions and (iii) other Dispositions resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company;

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any asset of the Company or any Subsidiary other than any resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company; or

(c) the incurrence by the Company or any Subsidiary of any Indebtedness, other than any Indebtedness permitted to be incurred by Section 6.01.

“Prime Rate” means the rate of interest last quoted by *The Wall Street Journal* as the “Prime Rate” in the United States or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board 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 Federal Reserve Board (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.

“Private Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that are not Public Side Lender Representatives.

“Pro Forma Adjustment” means, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, the pro forma increase or decrease in Consolidated EBITDA (including the portion thereof attributable to any assets (including Equity Interests) sold or acquired) projected by the Company in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of the assets acquired with the operations of the Company and the Subsidiaries or the applicable Disposition; provided that, so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated EBITDA, that such cost savings will be realizable during the entirety, or such additional costs, as applicable, will be incurred during the entirety of such Test Period; provided, further, that any such pro forma increase or decrease to Consolidated EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated EBITDA for such Test Period.

“Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect” means, with respect to compliance with any test or covenant hereunder required by the terms of this Agreement to be made on a Pro Forma Basis, that (a) to the extent applicable, the Pro Forma Adjustment shall have been made and (b) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of (or commencing with) the first day of the applicable period of measurement in such test or covenant: (i) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction (A) in the case of a Material Disposition of all or substantially all Equity Interests in any Subsidiary of the Company or any division, product line, or facility used

for operations of the Company or any of the Subsidiaries, shall be excluded, and (B) in the case of a Permitted Acquisition or Investment described in the definition of “Specified Transaction”, shall be included, (ii) any retirement of Indebtedness, (iii) any Indebtedness incurred or assumed by the Company or any of the Subsidiaries in connection therewith and (iv) if any such Indebtedness has a floating or formula rate, such Indebtedness shall be deemed to have accrued an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided that, without limiting the application of the Pro Forma Adjustment pursuant to clause (a) above, the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with (and subject to applicable limitations included in) the definition of Consolidated EBITDA and give effect to operating expense reductions that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Company and the Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of Pro Forma Adjustment; provided, further, that except as specified in the applicable provision requiring Pro Forma Compliance, any determination of Pro Forma Compliance required shall be made assuming that compliance with the financial covenant set forth in Section 6.12 is required with respect to the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b).

“Public Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that do not wish to receive MNPI.

“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.

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

“QFC Credit Support” has the meaning set forth in Section 9.23.

“Qualified Equity Interests” means Equity Interests of the Company other than Disqualified Equity Interests.

“Qualifying Equity Proceeds” means on any date with respect to any expenditure to make a Restricted Payment under Section 6.08(a)(vi) or to make a payment in reliance on Section 6.08(b)(vi), the aggregate amount of Net Proceeds received by the Company in respect of sales and issuances of its Equity Interests (other than Disqualified Equity Interests and other than sales or issuances to directors, officers and employees) during the 270-day period ending on the date of such expenditure, less the amount of all other expenditures made during such period and on or prior to such date (i) for such purposes in reliance on such receipts of Net Proceeds or (ii) representing the use of such Net Proceeds to make Permitted Acquisitions or other Investments (other than Permitted Investments).

“Quotation Day” means, in respect of (a) the determination of the LIBO Rate for any Interest Period for Loans denominated in Dollars, the day that is two Business Days prior to



the first day of such Interest Period; (b) the determination of the LIBO Rate for any Interest Period for Loans denominated in Sterling, the first day of such Interest Period; and (c) the determination of the EURIBO Rate for any Interest Period for Loans denominated in Euros, the day which is two Target2 Operating Days prior to the first day of such Interest Period; in each case unless market practice differs for loans in the applicable currency priced by reference to rates quoted in the relevant interbank market, in which case the Quotation Day for such currency shall be determined by the Administrative Agent in accordance with market practice for loans in such currency priced by reference to rates quoted in the relevant interbank market (and if quotations would normally be given by leading banks for loans in such currency priced by reference to rates quoted in the relevant interbank market on more than one day, the Quotation Day shall be the last of those days).

“Reaffirmation Documents” means such affirmations, reaffirmations, addenda, amendments or other modifying or confirmatory documents as the Administrative Agent shall deem appropriate in connection with confirming, maintaining and continuing the Guarantees by the Guarantor Loan Parties of the Obligations, and the Liens securing the Obligations, under the Existing Credit Agreement and the Security Documents thereunder as in effect prior to the effectiveness of this Agreement on the Effective Date, in each case in form and substance reasonably satisfactory to the Administrative Agent.

“Receivable” means any accounts receivable owed to or payable to the Company or a Subsidiary (whether now existing or arising or acquired in the future) arising in the ordinary course of business from the sale of goods or services, all collateral securing such accounts receivable, all contracts and contract rights and all guarantees or other obligations in respect of such accounts receivable, and all proceeds of such accounts receivable.

“Receivables Subsidiary” means a special purpose entity established as a “bankruptcy remote” Subsidiary for the purpose of acquiring Receivables (including collections thereof and any related assets) in connection with any Permitted Receivables Facility, which shall engage in no operations or activities other than those related to such Permitted Receivables Facility, including the issuance of Third Party Interests or other funding of such Permitted Receivables Facilities and activities reasonably related thereto

“Recipient” has the meaning set forth in Section 2.16(a).

**“Reference Time” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the LIBO Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not the LIBO Rate, the time determined by the Administrative Agent in its reasonable discretion.**

“Refinancing Indebtedness” means, in respect of any Indebtedness (the “Original Indebtedness”), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof); provided that (a) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of such Original Indebtedness except by an amount no greater than accrued and unpaid interest with respect to

such Original Indebtedness and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses relating to such extension, renewal or refinancing; (b) the stated final maturity of such Refinancing Indebtedness shall not be earlier than that of such Original Indebtedness, and such stated final maturity shall not be subject to any conditions that could result in such stated final maturity occurring on a date that precedes the stated final maturity of such Original Indebtedness; (c) such Refinancing Indebtedness shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default or a change in control or as and to the extent such repayment, prepayment, redemption, repurchase or defeasance would have been required pursuant to the terms of such Original Indebtedness) prior to the earlier of (i) the maturity of such Original Indebtedness and (ii) the date 180 days after the latest Maturity Date in effect on the date of such extension, renewal or refinancing; provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated) of such Refinancing Indebtedness shall be permitted so long as the weighted average life to maturity of such Refinancing Indebtedness shall be longer than the shorter of (x) the weighted average life to maturity of such Original Indebtedness remaining as of the date of such extension, renewal or refinancing and (y) the weighted average life to maturity of each Class of the Term Loans remaining as of the date of such extension, renewal or refinancing (in each case, determined without giving effect to any prepayments that reduce amortization); (d) such Refinancing Indebtedness shall not constitute an obligation (including pursuant to a Guarantee) of any Subsidiary that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become) an obligor in respect of such Original Indebtedness, and shall not constitute an obligation of the Company if the Company shall not have been an obligor in respect of such Original Indebtedness, and, in each case, shall constitute an obligation of such Subsidiary or of the Company only to the extent of their obligations in respect of such Original Indebtedness; (e) if such Original Indebtedness shall have been subordinated to the Loan Document Obligations, such Refinancing Indebtedness shall also be subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders; and (f) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness (or would have been required to secure such Original Indebtedness pursuant to the terms thereof) or, in the event Liens securing such Original Indebtedness shall have been contractually subordinated to any Lien securing the Loan Document Obligations, by any Lien that shall not have been contractually subordinated to at least the same extent.

“Register” has the meaning set forth in Section 9.04(b)(iv).

“Regulated Bank” means an Approved Commercial Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Governors under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the directors, officers, partners, trustees, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Release” means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

“Release Date” means (i) if any Term Loans are outstanding on an Investment Grade Date, then the first date after the Investment Grade Date when no Term Loans are outstanding and prior to the occurrence of a Non-Investment Grade Date and (ii) if no Term Loans are outstanding on an Investment Grade Date, then such Investment Grade Date.

**“Relevant Governmental Body” means (a) with respect to a Benchmark Replacement in respect of Loans denominated in Dollars, the Board of Governors and/or the NYFRB, or a committee officially endorsed or convened by the Board of Governors and/or the NYFRB or, in each case, any successor thereto and (b) with respect to a Benchmark Replacement in respect of Loans denominated in any other currency, (i) the central bank for the currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (ii) any working group or committee officially endorsed or convened by (A) the central bank for the currency in which such Benchmark Replacement is denominated, (B) any central bank or other supervisor that is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement, (c) a group of those central banks or other supervisors or (d) the Financial Stability Board or any part thereof.**

“Relevant Party” has the meaning set forth in Section 2.16(k)(i)(ii).

“Relevant Territory” means:

(a) a member state of the European Union other than Ireland; or

(b) a jurisdiction having a double taxation agreement (a “Treaty”) with Ireland which has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“Removal Effective Date” has the meaning set forth in Article VIII.

“Repricing Transaction” means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Term Loans with the proceeds of any long-term bank financing or any other financing similar to such loans incurred or guaranteed by the Company or any Loan Party which reduces the effective yield (with the comparative determinations to be made by the Administrative Agent in a manner consistent with generally accepted financial practices, and in any event consistent with the calculation of the

Weighted Average Yield) to less than the effective yield (as determined by the Administrative Agent on the same basis) applicable to such Term Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to, or consent under, this Agreement reducing the effective yield (to be determined by the Administrative Agent on the same basis as set forth in preceding clause (a)) of the Term Loans; provided that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver, modification or consent in connection with a Change in Control constitute a Repricing Transaction. Any determination by the Administrative Agent of any effective interest rate as contemplated by preceding clauses (a) and (b) shall be conclusive and binding on all Term Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination.

**“Required Incremental TLA and Revolving Lenders” means, at any time, subject to Section 9.02(e), Lenders having Revolving Commitments and Incremental Term A-2021 Loans representing more than 50% of the sum of the aggregate outstanding Revolving Commitments and Incremental Term A-2021 Loans at such time, in each case, excluding the Loans and Commitments of any Defaulting Lender.**

“Required Lenders” means, at any time, subject to Section 9.02(e). Lenders having Revolving Exposures, Term Loans and unused Commitments representing more than 50% of the sum of the Aggregate Revolving Exposure, outstanding Term Loans and unused Commitments at such time, in each case, excluding the Loans and Commitments of any Defaulting Lender.

“Requirements of Law” means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Resolution Authority” means ~~any body which has authority~~ an EEA Resolution Authority or, with respect to exercise any Write-down and Conversion Powers UK Financial Institution, a UK Resolution Authority.

“Restored Lender” has the meaning set forth in Section 2.19.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of, or any other return of capital with respect to, any Equity Interests in the Company or any Subsidiary (other than any dividend or other distribution payable solely in Equity Interests of the Company (other than Disqualified Equity Interests) or options to purchase Equity Interests of the Company (other than Disqualified Equity Interests)).

“Revolving Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Revolving Maturity Date and the date of termination of the Revolving Commitments.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.07, (b) increased or established from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or the Incremental Facility Agreement pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. The initial aggregate amount of the Lenders’ Revolving Commitments as of the Effective Date is \$1,100,000,000.

“Revolving Exposure” means, with respect to any Lender at any time, the sum of the Dollar Equivalent of the outstanding principal amount of such Lender’s Revolving Loans and such Lender’s LC Exposure at such time.

“Revolving Lender” means a Lender with a Revolving Commitment or Revolving Exposure.

“Revolving Lender Parent” means, with respect to any Revolving Lender, any Person in respect of which such Lender is a subsidiary.

“Revolving Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Revolving Maturity Date” means August 28, 2024; provided that if such date is not a Business Day, the Revolving Maturity Date shall be the next preceding Business Day.

“S&P” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business.

“Sale/Leaseback Transaction” means an arrangement relating to property owned by the Company or any Subsidiary whereby the Company or such Subsidiary sells or transfers such property to any Person and the Company or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates.

“Sanctioned Country” means, at any time, a country, region or territory that is itself the subject or target of any country-wide or territory-wide Sanctions (at the Effective Date, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United

Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by or controlled by any Person or Persons described in the preceding clause (a) or (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

“Scheduled Dispositions” means the Dispositions to be effected after the Effective Date to the extent set forth in the letters provided to the Administrative Agent prior to the Effective Date.

“Scopus Industrial” means Scopus Industrial S/A, a Brazilian corporation and a wholly owned subsidiary of Scopus Tecnologia.

“Scopus Tecnologia” means Scopus Tecnologia Ltda., a Brazilian limited liability company.

“Screen Rate” means (a) in respect of the LIBO Rate for Dollars or Sterling for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for such currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period and (b) in respect of the EURIBO Rate for any Interest Period, the Euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for such Interest Period as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion).

“SEC” means the United States Securities and Exchange Commission.

“Section 956 Impact” means any incremental tax liability resulting or anticipated to result from the application of Section 956 of the Code (determined without regard to any tax attributes), regardless of a CFC's current or accumulated earning and profits (as defined within Section 312 of the Code).

“Secured Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Secured Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Secured Parties” has the meaning set forth in the Collateral Agreement.

“Secured Performance Support Obligations” has the meaning set forth in the Collateral Agreement.

“Securities Act” means the United States Securities Act of 1933.

“Security Documents” means the Collateral Agreement, the Foreign Pledge Agreements, the IP Security Agreements, the Reaffirmation Documents, the Pledge Agreement and each other security agreement or other instrument or document executed and delivered pursuant to Sections 5.03 or 5.12 to secure the Obligations.

“Seller’s Retained Interests” means the debt or equity interests held by the Company or a Subsidiary in a Receivables Subsidiary to which Receivables have been transferred in a Permitted Receivables Facility permitted by Section 6.05, including any Intercompany Permitted Receivables Facility Note or equity received in consideration for the Receivables transferred.

“Senior Bridge Facility” means any senior secured or unsecured bridge loan facility provided by banks and other financial institutions to the Company to provide a portion of the cash consideration payable for a Permitted Material Acquisition.

“Senior Bridge Loans” means any bridge loans incurred in connection with a Permitted Material Acquisition.

“Series” has the meaning set forth in Section 2.20(b).

**“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.**

**“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).**

**“SOFR Administrator’s Website” means the NYFRB’s Website, 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.**

“Specified Acquisition” means the acquisition of Cardtronics plc, a public limited company incorporated in England and Wales (the “Target”), by the Company pursuant to that certain Acquisition Agreement, dated as of January 25, 2021, among the Company, the Target and Cardtronics USA, Inc., a Delaware corporation.

“Specified ECF Percentage” means, with respect to any fiscal year of the Company, (a) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 2.25 to 1.00, 50%, (b) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 1.50 to 1.00 but less than or equal to 2.25 to 1.00, 25%, and (c) if the Secured Leverage Ratio as of the last day of such fiscal year is less than or equal to 1.50 to 1.00, 0%.

“Specified Representations” means the representations and warranties set forth in Sections 3.01(a) (solely with respect to the Company and each Foreign Borrower), 3.02, 3.03(c) (solely with respect to the Loan Parties), 3.03(d) (solely with respect to this Agreement and any then-existing indentures, other than with regard to any agreements governing Indebtedness being repaid in connection with the applicable Limited Condition Acquisition), 3.08, 3.12, 3.14, 3.15 and 3.16 (solely with respect to the use of proceeds).

“Specified Time” means (a) with respect to the LIBO Rate, 11:00 a.m., London time, and (b) with respect to the EURIBO Rate, 11:00 a.m., Brussels time.

“Specified Transaction” means, with respect to any period, any Investment, Disposition, incurrence or repayment of Indebtedness or Restricted Payment that by the terms of this Agreement requires “Pro Forma Compliance” with a test or covenant hereunder or requires such test or covenant to be calculated on a “Pro Forma Basis”.

“Standard Receivables Undertakings” means any representations, warranties, covenants and indemnities made by, and repurchase and other obligations of, the Company or a Subsidiary that are customary for a seller or servicer of assets transferred in connection with a Permitted Receivables Facility, as determined in good faith by the Company or such Subsidiary.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Board of Governors to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board of Governors). Such reserve percentage shall include those imposed pursuant to such Regulation D. Eurocurrency Loans denominated in Dollars shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Sterling” or “£” means lawful currency of the United Kingdom.

“Subordinated Indebtedness” of any Person means any Indebtedness of such Person that is subordinated in right of payment to any other Indebtedness of such Person.

“Subsequent Maturity Date” has the meaning set forth in Section 2.04(c).



“subsidiary” means, with respect to any Person (the “parent”) at any date, (a) any Person the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date and (b) any other Person (i) of which Equity Interests representing more than 50% of the equity value or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Company.

“Subsidiary Loan Party” means each Subsidiary that is a “Grantor” or “Guarantor” under and as defined in the Collateral Agreement. Notwithstanding anything to the contrary, no CFC shall be a Subsidiary Loan Party. Pursuant to Section 9.14(e), as of the Effective Date, Radiant Payment Services, LLC will no longer be a Subsidiary Loan Party.

“Supplier” has the meaning set forth in Section 2.16(k)(ii).

“Supported QFC” has the meaning set forth in Section 9.23.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of real or personal property, or a combination thereof, (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee is deemed to own the property so leased for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” means, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease (determined, in the case of a Synthetic Lease providing for an option to purchase the leased property, as if such purchase were required at the end of the term thereof) that would appear on a balance sheet of such Person prepared in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations. For purposes of Section 6.02, a Synthetic Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Target” has the meaning given thereto in the definition of “Specified Acquisition”.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system.

“Target2 Operating Day” means any day (other than a Saturday or Sunday) on which both (a) TARGET2 (or, if TARGET2 ceases to be operative, such other payment system as shall be determined by the Administrative Agent to be a replacement therefor for purposes hereof) is open for the settlement of payments in Euros and (b) banks in London, England are open for general business.

“Tax Administrative Questionnaire” means a Tax Administrative Questionnaire in a form supplied by the Administrative Agent.

“Taxes” means any present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

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

“Term Commitment” means, with respect to each Lender, such Lender’s Delayed Draw Term Commitment and Initial Term Commitment, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Term Commitment, as applicable. The initial aggregate amount of the Lenders’ Term Commitments as of the Effective Date is \$750,000,000.

“Term Lender” means a Lender with a Term Commitment or an outstanding Term Loan.

“Term Loans” means the Delayed Draw Term Loans and the Initial Term Loans.

“Term Maturity Date” means August 28, 2026; provided that if such date is not a Business Day, the Term Maturity Date shall be the next preceding Business Day.

**“Term SOFR” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.**

**“Term SOFR Notice” means a notification by the Administrative Agent to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, of the occurrence of a Term SOFR Transition Event.**

**“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-In Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.13(a) that is not Term SOFR.**

“Test Period” means, at any date of determination, the period of four consecutive fiscal quarters of the Company then last ended.

“Third Party Interests” means, with respect to any Permitted Receivables Facility, notes, bonds or other debt instruments, beneficial interests in a trust, undivided ownership interests in Receivables or other securities issued for cash consideration by the relevant

Receivables Subsidiary to banks, financing conduits, investors or other financing sources (other than the Company and the Subsidiaries) the proceeds of which are used to finance, in whole or in part, the purchase by such Receivables Subsidiary of Receivables in a Permitted Receivables Facility. The amount of any Third Party Interests at any time shall be deemed to equal the aggregate principal, stated or invested amount of such Third Party Interests which are outstanding at such time.

“Transaction Costs” means the fees and expenses incurred in connection with the Transactions.

“Transactions” means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance and use of Letters of Credit under this Agreement.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Eurocurrency Rate or the Alternate Base Rate.

~~“UK Bail-In Legislation” means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).~~

“UK Borrower” means any Borrower (i) that is organized or formed under the laws of the United Kingdom or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the United Kingdom.

“UK Borrower DTTP Filing” means an HMRC Form DTTP2 duly completed and filed by the relevant Loan Party, which:

(a) where it relates to a UK Treaty Lender that is a Lender on the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence opposite that Lender’s name in Schedule 1.1(i), and

(i) where the Loan Party is a Loan Party on the date of this Agreement, is filed with HMRC within 30 Business Days after the date of this Agreement; or

(ii) where the Loan Party becomes a Loan Party after the date of this Agreement, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement; or

(b) where it relates to a UK Treaty Lender that becomes a Lender after the Effective Date, contains the scheme reference number and jurisdiction of tax residence in the relevant Assignment and Assumption Agreement, and

(i) where the Loan Party is a Loan Party on the date such UK Treaty Lender becomes a Lender under this Agreement (“New Lender Date”), is filed with HMRC within 30 Business Days after the New Lender Date; or

(ii) where the Loan Party becomes a Loan Party under this Agreement after the New Lender Date, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement.

“UK Corporation Tax Act” means the Corporation Tax Act 2009 of the United Kingdom.

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

(a) a Lender:

(i) which is a bank (as defined for the purpose of section 879 of the UK Taxes Act) making an advance under a Loan Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the UK Corporation Tax Act; or

(ii) in respect of an advance made under a Loan Document by a person that was a bank (as defined for the purpose of section 879 of the UK Taxes Act) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(b) a Lender which is:

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

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

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

(c) a UK Treaty Lender.

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

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

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

(b) a partnership each member of which is (A) a company resident in the United Kingdom or (B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the UK Corporation Tax Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK Corporation Tax Act; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 19 of the UK Corporation Tax Act) of that company.

“UK Taxes Act” means the Income Tax Act 2007 of the United Kingdom.

“UK Treaty Lender” means a Lender which is treated as a resident of a UK Treaty State for the purposes of the Treaty, does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected and, subject to the completion of procedural formalities, meets all other conditions in the UK Treaty for full exemption from tax imposed by the United Kingdom.

“UK Treaty State” means a jurisdiction having a double taxation agreement (a “UK Treaty”) with the United Kingdom, which makes provision for full exemption from tax imposed by the United Kingdom on interest.

**“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.**

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unrestricted Cash” means, as of any date, unrestricted cash and cash equivalents owned by the Company and the Subsidiaries that are not, and are not presently required under the terms of any agreement or other arrangement binding on the Company or any Subsidiary on such date to be, (a) pledged to or held in one or more accounts under the control of one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations), (b) otherwise segregated from the general assets of the Company and the Subsidiaries, in one or more special accounts or otherwise, for the purpose of securing or providing a source of payment for Indebtedness or other obligations that are or from time to time may be owed to one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations) or (c) held by a Subsidiary that is not wholly-owned or that is subject to restrictions (in the case of foreign laws or approvals of foreign Governmental Authorities applicable to Foreign Subsidiaries, of which the Company has actual knowledge) on its ability to pay dividends or distributions; provided that Unrestricted Cash on any date will include the pro rata share (based on their relative holdings of Equity Interests entitled to dividends and distributions) of the Company and its wholly-owned Subsidiaries of the Unrestricted Cash of any non-wholly Subsidiary not subject to such restrictions. It is agreed that cash and cash equivalents held in ordinary deposit or security accounts and not subject to any existing or contingent restrictions on transfer by the Company or a Subsidiary will not be excluded from Unrestricted Cash by reason of setoff rights or other Liens created by law or by applicable account agreements in favor of the depository institutions or security intermediaries.

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

“U.S. Special Resolution Regime” has the meaning set forth in Section 9.23.

“U.S. Tax Certificate” has the meaning set forth in Section 2.16(f)(ii)(D)(2).

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

“VAT” means: (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/122); and (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Weighted Average Yield” means, at any time, with respect to any Loan, the weighted average yield to stated maturity of such Loan based on the interest rate or rates applicable thereto and giving effect to all upfront or similar fees or original issue discount payable to the Lenders advancing such Loan with respect thereto and to any interest rate “floor”. For purposes of determining the Weighted Average Yield of any floating rate Indebtedness at any time, the rate of interest applicable to such Indebtedness at such time shall be assumed to be the rate applicable at all times prior to maturity; provided that appropriate adjustments shall be made for any changes in rates of interest provided for in the documents governing such Indebtedness (other than those resulting from fluctuations in interbank offered rates, prime rates,

Federal funds rates or other external indices not influenced by the financial performance or creditworthiness of the Company or any other Subsidiary). Determinations of the Weighted Average Yield of any Loans for purposes of Section 2.20 shall be made by the Administrative Agent at the request of the Company and in a manner determined by the Administrative Agent to be consistent with accepted financial practice, and any such determination shall be conclusive, absent manifest error.

“wholly-owned”, when used in reference to a subsidiary of any Person, means that all the Equity Interests in such subsidiary (other than directors’ qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly-owned subsidiary of such Person or any combination thereof.

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

“Withholding Agent” means any Loan Party or the Administrative Agent.

“Write-Down and Conversion Powers” means:

(a) ~~(a) in relation with respect~~ to any ~~Bail-In Legislation described in the EU Bail-In Legislation Schedule~~ 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 ~~as such in relation to that Bail-In Legislation~~ in the EU Bail-In Legislation Schedule; ~~and~~

(b) ~~(b) in relation with respect~~ to the United Kingdom, any ~~other~~ powers of the applicable ~~Bail-In Legislation~~:

(i) any powers Resolution Authority under ~~that~~ the Bail-In Legislation ~~to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution;~~ to cancel, reduce, modify or change the form of a liability of ~~such a person~~ any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; ~~and~~

(ii) any similar or analogous powers under that Bail-In Legislation; and

(c) ~~in relation to any UK Bail-In Legislation~~:

~~(i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and~~

~~(ii) any similar or analogous powers under that UK Bail-In Legislation.~~

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Class (e.g., a “Revolving Loan” or “Revolving Borrowing”) or by Type (e.g., a “Eurocurrency Loan” or “Eurocurrency Borrowing”) or by Class and Type (e.g., a “Eurocurrency Revolving Loan” or “Eurocurrency Revolving Borrowing”).

SECTION 1.03. Terms Generally. (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) references to “the date hereof” and “the date of this Agreement” shall be deemed to refer to the Effective Date.



(b) In this Agreement, where it relates to a Dutch entity, a reference to:

(i) a necessary action to authorise, where applicable, includes without limitation:

(A) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and

(B) obtaining unconditional positive advice (*advies*) from each competent works council and, if such advice is not unconditional, confirmation from the Company that the conditions set by the works' council are and will be complied with;

(ii) a winding-up, administration or dissolution includes a Dutch entity being:

(A) declared bankrupt (*failliet verklaard*);

(B) dissolved (*ontbonden*);

(iii) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;

(iv) an administrator includes a *bewindvoerder*;

(v) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(vi) an attachment includes a *beslag*.

SECTION 1.04. Accounting Terms; GAAP; Pro Forma Calculations. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed in accordance with GAAP as in effect from time to time; provided that (i) if the Company, by notice to the Administrative Agent, shall request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent or the Required Lenders, by notice to the Company, shall request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith and (ii) notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, (A) without giving effect to (I) any election under Statement of Financial Accounting Standards 159, The Fair Value Option for Financial Assets and Financial Liabilities, or any successor thereto (including pursuant to the Accounting Standards Codification), or under any similar accounting standard, to value any Indebtedness of the Company or any Subsidiary at "fair value" or any similar valuation standard, as defined therein and (II) unless the Company notifies the Administrative Agent in writing of its election to

cease doing so (which notice shall be included as part of a Compliance Certificate), any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842) (“FAS 842”), to the extent such adoption would require (x) treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2015 or (y) recognizing liabilities on the balance sheet with respect to operating leases under FAS 842, and (B) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. For purposes of the foregoing, any change by the Company in its accounting principles and standards to adopt International Financial Reporting Standards, regardless of whether required by applicable laws and regulations, will be deemed a change in GAAP.

(b) [Reserved]

(c) For purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Material Acquisition or Material Disposition occurs, Consolidated EBITDA, the Leverage Ratio and the Secured Leverage Ratio shall be calculated with respect to such period and with respect to such Material Acquisition or Material Disposition on a Pro Forma Basis. In the event that the Revolving Commitments are terminated (whether at maturity or otherwise), any provision herein requiring pro forma compliance with Section 6.12 (including by a level determined by reference to Section 6.12) will be deemed to refer to the financial covenant in Section 6.12 most recently in effect prior to such termination.

Notwithstanding the foregoing, none of the Company, the Administrative Agent and the Required Lenders may give a notice requesting any amendment pursuant to clause (i) of the proviso to the first sentence of this Section in respect of the proposed or actual adoption by the Company of Mark-to-Market Pension Accounting as permitted by Accounting Standards Codification (ASC) 715-30, unless the accounting principles or application thereof proposed to be adopted or adopted, as the case may be, or the consequences of such adoption, differ materially from those described in the definition of “Mark-to-Market Pension Accounting” herein, including the description set forth in Annex A.

SECTION 1.05. Status of Obligations. In the event that the Company or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Company shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Loan Document Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Loan Document Obligations are hereby designated as “senior indebtedness” and

as “designated senior indebtedness” under and in respect of any indenture or other agreement or instrument under which such other Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

**SECTION 1.06. Currency Translation.** (a) The Administrative Agent shall determine the Dollar Equivalent of any Letter of Credit denominated in Euros or Sterling as of the date of the issuance thereof and as of each subsequent date on which such Letter of Credit shall be renewed or extended or the stated amount of such Letter of Credit shall be increased, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Letter of Credit until the earlier of the next required calculation thereof pursuant to this Section 1.06(a) and the next calculation thereof pursuant to Section 1.06(c).

(b) The Administrative Agent shall determine the Dollar Equivalent of any Borrowing denominated in Euros or Sterling as of the date of the commencement of the initial Interest Period therefor and as of the date of the commencement of each subsequent Interest Period therefor, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date that is three Business Days prior to the date on which the applicable Interest Period shall commence, and each such amount shall be the Dollar Equivalent of such Borrowing until the earlier of the next required calculation thereof pursuant to this Section 1.06(b) and the next calculation thereof pursuant to Section 1.06(c).

(c) The Administrative Agent may, at its election, determine the Dollar Equivalent of any Borrowing or Letter of Credit denominated in Euros or Sterling on any other Business Day.

(d) The Administrative Agent shall notify the Borrowers, the applicable Lenders and the applicable Issuing Bank of each calculation of the Dollar Equivalent of each Letter of Credit, Borrowing and LC Disbursement.

(e) Notwithstanding any other provision of this Agreement, amounts denominated in a currency other than Dollars will be converted to Dollars for the purposes of calculating the Leverage Ratio and the Secured Leverage Ratio at the exchange rates then used by the Company in its financial statements.

(f) Where the permissibility of a transaction (other than the issuance or incurrence of Indebtedness, which shall be subject to the following paragraph (g)), depends upon compliance with, or is determined by reference to, amounts stated in Dollars, any amount in respect of such transaction stated in another currency shall be translated to Dollars at the Exchange Rate then in effect at the time such transaction is entered into and the permissibility of actions taken hereunder shall not be affected by subsequent fluctuations in exchange rates.

(g) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar Equivalent principal amount of Indebtedness denominated in a currency other than Dollars shall be calculated based on the relevant Exchange Rate in effect on the date such Indebtedness was incurred, in the case of Indebtedness (other than revolving credit debt), or on the date when the commitments thereunder are first available to be drawn, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a currency other than Dollars, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant Exchange Rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased except by an amount no greater than accrued and unpaid interest thereon and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses related thereto. The principal amount in Dollars of any Indebtedness incurred to extend, replace, refund, refinance, renew or defease other Indebtedness, if incurred in a different foreign currency from the Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, shall be calculated by the Administrative Agent based on the Exchange Rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance.

SECTION 1.07. Borrower Agent. Each Foreign Borrower hereby appoints the Company as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of financial reports, receipt and payment of Loan Document Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with the Administrative Agent, the Issuing Banks or any Lender, and each Foreign Borrower releases the Company from any restrictions on representing several Persons and self-dealing under any applicable Requirements of Law (the Company, acting on its behalf and on behalf of any Foreign Borrower pursuant to such agency, the "Borrower Agent"). The Company hereby accepts such appointment as representative and agent of each Foreign Borrower. Notwithstanding any other provision of this Agreement:

(a) the Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Borrowing Request or any Interest Election Request) delivered on behalf of a Foreign Borrower by the Borrower Agent;

(b) the Administrative Agent, the Issuing Banks and the Lenders may give any notice to or make any other communication with any Foreign Borrower hereunder to or with the Borrower Agent;

(c) the Administrative Agent, the Issuing Banks and the Lenders shall have the right, in its discretion, to deal exclusively with the Borrower Agent for any or all purposes under the Loan Documents; and

(d) each Foreign Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by the Borrower Agent shall be binding upon and enforceable against it.

SECTION 1.08. Obligations Joint and Several. Each agreement in any Loan Document by any Foreign Borrower to make any payment, to take any action or otherwise to be bound by the terms thereof is a joint and several agreement of all the Foreign Borrowers, and each obligation of any Foreign Borrower under any Loan Document shall be a joint and several obligation of all the Foreign Borrowers. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, no Foreign Borrower shall be jointly and severally liable with the Company or any Domestic Subsidiary for any Obligation pursuant to any Loan Document.

SECTION 1.09. Interest Rates; LIBOR Notification. The interest rate on Eurocurrency Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration Limited (together with any successor to the ICE Benchmark Administration Limited, the “IBA”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurocurrency Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.13(b)(ii), such Section provides, or upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, Sections 2.13(a)(ii) and (a)(iii) provide, a mechanism for determining an alternative rate of interest. The Administrative Agent will promptly notify the Company, pursuant to Section 2.13, ~~in advance~~ of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of the term “LIBO Rate” (or “EURIBO Rate”, as applicable) or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Section 2.13(a)(ii) or (iii), whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Section 2.13(a)(iv)), including

whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.13~~(b)~~, will be similar to, or produce the same value or economic equivalence of, the LIBO Rate (or the EURIBO Rate, as applicable) or have the same volume or liquidity as did the London interbank offered rate (or the euro interbank offered rate, as applicable) prior to its discontinuance or unavailability.

SECTION 1.10. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

## ARTICLE II

### The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees (a) to make an Initial Term Loan in Dollars to the Company on the Effective Date in an aggregate principal amount not exceeding its Initial Term Commitment, (b) to make a Delayed Draw Term Loan in Dollars to the Company at any time on or after the Effective Date and on or prior to December 31, 2019, in an aggregate principal amount not exceeding its Delayed Draw Term Commitment and (c) to make Revolving Loans denominated in Dollars, Euros or Sterling to the Borrowers from time to time during the Revolving Availability Period in an aggregate principal amount that will not result in (i) such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment, (ii) the Aggregate Revolving Exposure exceeding the Aggregate Revolving Commitment or (iii) the Foreign Borrower Exposure exceeding \$400,000,000. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. Loans and Borrowings. (a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class, Type and currency made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. The Initial Term Loans and the Delayed Draw Term Loans shall, upon funding, constitute a single Class of Term Loans hereunder.

(b) Subject to Section 2.13, (i) each Borrowing denominated in Dollars shall be comprised entirely of ABR Loans or Eurocurrency Loans, as the applicable Borrower, or the Borrower Agent on its behalf, may request in accordance herewith, (ii) each Borrowing denominated in Euros or Sterling shall be comprised entirely of Eurocurrency Loans and (iii)

each Borrowing by a Foreign Borrower shall be comprised entirely of Eurocurrency Loans; provided that all Borrowings made on the Effective Date must be made by the Company as ABR Borrowings unless the applicable Borrower, or the Borrower Agent on its behalf, shall have given the notice required for a Eurocurrency Borrowing under Section 2.03 and provided an indemnity letter, in form and substance reasonably satisfactory to the Administrative Agent, extending the benefits of Section 2.15 to the Lenders in respect of such Borrowings. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that (i) a Eurocurrency Borrowing that results from a continuation of an outstanding Eurocurrency Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing and (ii) a Eurocurrency Borrowing denominated in Euros or Sterling may be in the amount that is required to finance the reimbursement of an LC Disbursement denominated in such currency as contemplated by Section 2.04(f) or in an amount that is equal to the difference between \$400,000,000 and the Foreign Borrower Exposure prior to giving effect to such Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Revolving Commitment or that is required to finance the reimbursement of an LC Disbursement denominated in Dollars as contemplated by Section 2.04(f). Borrowings of more than one Type, Class and currency may be outstanding at the same time; provided that there shall not at any time be more than a total of 15 (or such greater number as may be agreed to by the Administrative Agent) Eurocurrency Borrowings outstanding.

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

**SECTION 2.03. Requests for Borrowings.** To request a Revolving Borrowing or Term Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such request by delivery of an executed written Borrowing Request (a) in the case of a Eurocurrency Borrowing denominated in Dollars, not later than 10:00 a.m., Local Time, two Business Days before the date of the proposed Borrowing, (b) in the case of a Eurocurrency Borrowing denominated in Euros or Sterling, not later than 10:00 a.m., Local Time, three Business Days before the date of the proposed Borrowing or (c) in the case of an ABR Borrowing, not later than 3:00 p.m., New York City time, on the day of the proposed Borrowing. Each such written Borrowing Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

(i) the Borrower of such Borrowing;

(ii) whether the requested Borrowing is to be a Term Borrowing, an Incremental Term Borrowing of a particular Series or a Revolving Borrowing;

(iii) the currency and aggregate amount of such Borrowing;

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

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

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

(vii) the location and number of the account of the applicable Borrower (or the applicable Borrower's designee) to which funds are to be disbursed or, in the case of any ABR Revolving Borrowing requested to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), the identity of the Issuing Bank that made such LC Disbursement.

If no election as to the Type of Borrowing is specified, then, if the specified currency of such Borrowing is (a) Dollars, the requested Borrowing shall be an ABR Borrowing, and (b) Euros or Sterling, the requested Borrowing shall be a Eurocurrency Borrowing. If no currency is specified with respect to any requested Revolving Loan, the applicable Borrower shall be deemed to have specified Dollars. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing, then the applicable Borrower shall be deemed to have selected an Interest Period of seven days' duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, each Borrower may request the issuance of Letters of Credit for its own account or, so long as the Company is a joint and several co-applicant with respect thereto, the account of any Subsidiary, denominated in Dollars, Euros or Sterling and in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Revolving Availability Period. The Company unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the account of any Subsidiary as provided in the first sentence of this paragraph, it will be fully responsible for the reimbursement of LC Disbursements, the payment of interest thereon and the payment of fees due under Section 2.11(b) to the same extent as if it were the sole account party in respect of such Letter of Credit. Each Existing Letter of Credit shall be deemed, for all purposes of this Agreement (including paragraphs (d) and (f) of this Section), to be a Letter of Credit issued hereunder for the account of the applicable Borrower. Notwithstanding anything contained in



any letter of credit application furnished to any Issuing Bank in connection with the issuance of any Letter of Credit, (i) all provisions of such letter of credit application purporting to grant liens in favor of the Issuing Bank to secure obligations in respect of such Letter of Credit shall be disregarded, it being agreed that such obligations shall be secured to the extent provided in this Agreement and in the Security Documents, and (ii) in the event of any inconsistency between the terms and conditions of such letter of credit application and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, the Borrowers shall not request, and no Issuing Bank shall have any obligation to issue, any Letter of Credit the proceeds of which would be made available to any Person (A) to fund any activity or business of or with any Sanctioned Person, or in any Sanctioned Country, in each case except to the extent permissible for a Person required to comply with Sanctions, or (B) in any manner that would result in a violation of any Sanctions by any party to this Agreement.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit or the amendment, renewal or extension of an outstanding Letter of Credit, the applicable Borrower, or the Borrower Agent on its behalf, shall hand deliver or fax (or transmit by electronic communication, if arrangements for doing so have been approved by the recipient) to the applicable Issuing Bank and the Administrative Agent, reasonably in advance of the requested date of issuance, amendment, renewal or extension, a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the requested date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount and currency of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to enable the applicable Issuing Bank to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the applicable Borrower, or the Borrower Agent on its behalf, also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any such request. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon each issuance, amendment, renewal or extension of any Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment and (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment. The Company may, at any time and from time to time, reduce the LC Commitment of any Issuing Bank with the consent of such Issuing Bank; provided that the Company shall not reduce the LC Commitment of any Issuing Bank if, after giving effect to such reduction, the conditions set forth in clause (ii) above shall not be satisfied. Each Issuing Bank agrees that it shall not permit any issuance, amendment, renewal or extension of a Letter of Credit to occur unless it shall have given to the Administrative Agent written notice thereof required under paragraph (l) of this Section.

An Issuing Bank shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing the Letter of Credit, or any law, rule or regulation applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which such Issuing Bank in good faith deems material to it; or (ii) the issuance of the Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) unless otherwise consented to by the applicable Issuing Bank and (ii) the date that is five Business Days prior to the Revolving Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the applicable Borrower, or the Borrower Agent on its behalf, and the applicable Issuing Bank pursuant to which the expiration date of such Letter of Credit shall automatically be extended for a period of up to 12 months (but not to a date later than the date set forth in clause (ii) above), subject to a right on the part of such Issuing Bank to prevent any such renewal from occurring by giving notice to the beneficiary in advance of any such renewal; and provided, further, that if there exist any Incremental Revolving Commitments having a maturity date later than the Revolving Maturity Date (the "Subsequent Maturity Date"), then, so long as the aggregate LC Exposure in respect of Letters of Credit expiring after the Revolving Maturity Date will not exceed the lesser of \$50,000,000 and the aggregate amount of such Incremental Revolving Commitments, the applicable Borrower, or the Borrower Agent on its behalf, may request the issuance of a Letter of Credit that shall expire at or prior to the close of business on the earlier of (A) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (B) the date that is five Business Days prior to the Subsequent Maturity Date. Notwithstanding the foregoing, any Letter of Credit issued hereunder may, in the sole discretion of the applicable Issuing Bank, expire after the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date) but on or before the date that is 90 days after the Revolving Maturity Date (or the Subsequent Maturity Date); provided that each Borrower hereby agrees that it shall in the case of any such Letter of Credit issued for its account provide cash collateral in an amount equal to 102% of the LC Exposure in respect of any such outstanding Letter of Credit to the applicable Issuing Bank at least five Business Days prior to the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), which such amount shall be (A) deposited by the applicable Borrower in an account with and in the name of such Issuing Bank and (B) held by such Issuing Bank for the satisfaction of the applicable Borrower's reimbursement obligations in respect of such Letter of Credit until the expiration of such Letter of Credit. Any Letter of Credit issued with an expiration date beyond

the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date, as applicable) shall, to the extent of any undrawn amount remaining thereunder on the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), cease to be a "Letter of Credit" outstanding under this Agreement for purposes of the Revolving Lenders' obligations to participate in Letters of Credit pursuant to clause (d) below.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or any Revolving Lender, the Issuing Bank that is the issuer thereof hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Revolving Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank under such Letter of Credit and not reimbursed by the applicable Borrower on the date due as provided in paragraph (f) of this Section, or of any reimbursement payment required to be refunded to a Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or any reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender further acknowledges and agrees that, in issuing, amending, renewing or extending any Letter of Credit, the applicable Issuing Bank shall be entitled to rely, and shall not incur any liability for relying, upon the representation and warranty of the applicable Borrower deemed made pursuant to Section 4.02.

(e) Disbursements. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit and shall promptly notify the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, by telephone (confirmed by hand delivery or facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(f) Reimbursements. If an Issuing Bank shall make an LC Disbursement in respect of a Letter of Credit, the applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement, in the currency in which such LC Disbursement is made, not later than 12:00 noon, Local Time, on the Business Day immediately following the day that the applicable Borrower, or the Borrower Agent on its behalf, receives notice of such LC Disbursement; provided that, if the amount of such LC Disbursement is not greater than the amount then available to be borrowed as a Revolving Borrowing by the applicable Borrower, the applicable Borrower, or the Borrower Agent on its behalf, may, subject to the conditions to borrowing set forth herein, request in accordance with

Section 2.03 that such payment be financed with a Revolving Borrowing, in an amount equal to the amount of such LC Disbursement and, to the extent so financed, the applicable Borrower's obligation to make such payment shall be discharged and replaced by the resulting Revolving Borrowing. If the applicable Borrower fails to reimburse any LC Disbursement by the time specified above, the Administrative Agent shall notify each Revolving Lender of such failure, the payment then due from the applicable Borrower in respect of the applicable LC Disbursement and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the amount then due from the applicable Borrower in the applicable currency, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the applicable Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Revolving Lenders and such Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse an Issuing Bank for an LC Disbursement (other than the funding of an ABR Revolving Borrowing as contemplated above) shall not constitute a Loan and shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(g) Obligations Absolute. The applicable Borrower's obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section is absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision thereof or hereof, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this paragraph, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Borrower's obligations hereunder. None of the Administrative Agent, the Lenders, the Issuing Banks or any of their Related Parties shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any other act, failure to act or other event or circumstance; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the applicable Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by each Borrower to the extent permitted by applicable law) suffered by a Borrower that are caused by such Issuing Bank's failure to

exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of bad faith, gross negligence or willful misconduct on the part of an Issuing Bank (as determined by a court of competent jurisdiction in a final and nonappealable judgment), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the applicable Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the applicable Borrower reimburses such LC Disbursement in full, (i) in the case of any LC Disbursement denominated in Dollars, at the rate per annum then applicable to ABR Revolving Loans, and (ii) in the case of any LC Disbursement denominated in Euros or Sterling, at the Overnight Eurocurrency Rate plus the Applicable Rate then applicable to Eurocurrency Revolving Loans; provided that, if the applicable Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then Section 2.12(c) shall apply. Interest accrued pursuant to this paragraph shall be paid to the Administrative Agent, for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (f) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment, and shall be payable on demand or, if no demand has been made, on the date on which the applicable Borrower reimburses the applicable LC Disbursement in full.

(i) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrowers or the Borrower Agent receive notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, a Majority in Interest of the Revolving Lenders) demanding the deposit of cash collateral pursuant to this paragraph, each Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the portion of the LC Exposure attributable to each Letter of Credit issued for the account of such Borrower and outstanding on such date, plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (i) or (j) of Article VII. Amounts payable under the preceding sentence in respect of any Letter of Credit or LC Disbursement shall be payable in the currency of such Letter of Credit or LC Disbursement. The Borrowers also shall deposit cash collateral in accordance with this paragraph as and to the extent required by Section 2.10(b) or 2.19. Each such deposit by any Borrower shall be held by the Administrative Agent as collateral

for the payment and performance of the obligations of such Borrower under this Agreement and the other Loan Documents. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made as mutually agreed by the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, and at the applicable Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the applicable Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of a Majority in Interest of the Revolving Lenders), be applied to satisfy other obligations of the applicable Borrower under this Agreement. If a Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three Business Days after all Events of Default have been cured or waived. If a Borrower is required to provide an amount of cash collateral hereunder pursuant to Section 2.10(b), such amount (to the extent not applied as aforesaid) shall be returned to such Borrower as and to the extent that, after giving effect to such return, the Aggregate Revolving Exposure would not exceed the Aggregate Revolving Commitment and no Default shall have occurred and be continuing.

(j) Designation of Additional Issuing Banks. The Company may, at any time and from time to time, with the consent of the Administrative Agent (which consent shall not be unreasonably withheld), designate as additional Issuing Banks one or more Revolving Lenders that agree to serve in such capacity as provided below. The acceptance by a Revolving Lender of an appointment as an Issuing Bank hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent, executed by the Company, the Administrative Agent and such designated Revolving Lender and, from and after the effective date of such agreement, (i) such Revolving Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein to the term "Issuing Bank" shall be deemed to include such Revolving Lender in its capacity as an issuer of Letters of Credit hereunder.

(k) Termination of an Issuing Bank. The Company may terminate the appointment of any Issuing Bank as an "Issuing Bank" hereunder by providing a written notice thereof to such Issuing Bank, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Issuing Bank acknowledging receipt of such notice and (ii) the 10th Business Day following the date of the delivery thereof; provided that no such termination shall become effective until and unless the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (or its Affiliates) shall have been reduced to zero. At the time any such termination shall become effective, the Company shall pay all unpaid fees accrued for the account of the terminated Issuing Bank pursuant to Section 2.11(b). Any Issuing Bank that ceases to be a Lender for any reason shall concurrently cease to be an Issuing Bank. Notwithstanding the effectiveness of any such termination, the terminated Issuing Bank shall

remain a party hereto and shall continue to have all the rights of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not issue any additional Letters of Credit.

(l) Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) reasonably prior to the time that such Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the stated amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date, amount and currency of such LC Disbursement, (iv) on any Business Day on which a Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount and currency of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

(m) LC Exposure Determination. For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at the time of determination.

(n) Tax Matters. Notwithstanding anything to the contrary herein, no CFC shall be responsible for the reimbursement of LC Disbursements, the payment of interest thereon, and the payment of fees due under Section 2.11(b) with respect thereto, to the extent that the applicable Letter of Credit was issued for the account of the Company or any Domestic Subsidiary.

SECTION 2.05. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the applicable Borrower by promptly remitting the amounts so received, in like funds, to the account of such Borrower maintained with the Administrative Agent and designated by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request or, in the case of any Borrowing made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), to the Issuing Bank specified by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice in writing from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.05 and may, in reliance on such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the applicable Borrower, the interest rate applicable to ABR Revolving Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.06. Interest Elections. (a) Each Revolving Borrowing and Term Borrowing initially shall be of the Type and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the applicable Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the applicable Borrower, or the Borrower Agent on its behalf, may elect to continue such Borrowing or, in the case of a Borrowing denominated in Dollars, to convert such Borrowing to a Borrowing of a different Type and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower, or the Borrower Agent on its behalf, may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such election by delivery of an executed written Interest Election Request by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such written Interest Election Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;



(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is to be a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of seven days' duration.

(c) Promptly following receipt of an Interest Election Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall (i) in the case of a Term Borrowing, be continued as a Eurocurrency Borrowing for an additional Interest Period of seven days, (ii) in the case of a Revolving Borrowing denominated in Dollars, be converted to an ABR Borrowing, and (iii) in the case of a Revolving Borrowing denominated in Euros or Sterling, be continued as a Borrowing of the same Type with an Interest Period of seven days' duration. Notwithstanding any contrary provision hereof, if an Event of Default under clause (i) or (j) of Article VII has occurred and is continuing with respect to any Borrower, or if any other Event of Default has occurred and is continuing and the Administrative Agent, at the request of a Majority in Interest of Lenders of any Class, has notified the Company of the election to give effect to this sentence on account of such other Event of Default, then, in each such case, so long as such Event of Default is continuing, (i) no outstanding Borrowing of such Class denominated in Dollars may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing of such Class denominated in Dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.07. Termination and Reduction of Commitments. (a) Unless previously terminated, (i) the Initial Term Commitments shall automatically terminate at 5:00 p.m., New York City time, on the Effective Date, (ii) the Delayed Draw Term Commitments shall automatically terminate on the earlier of (A) the funding of any Delayed Draw Term Loans and (B) 5:00 p.m., New York City time, on December 31, 2019, and (iii) the Revolving Commitments shall automatically terminate on the Revolving Maturity Date.

(b) The Company may at any time terminate, or from time to time permanently reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Company shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent repayment of the Revolving Loans in accordance with

Section 2.10, the Aggregate Revolving Exposure would exceed the Aggregate Revolving Commitment.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section not later than 12:00 noon, Local Time, on the effective date of such termination or reduction, specifying the effective date thereof; provided that, at any time when there are Eurocurrency Revolving Borrowings outstanding, in the case of any reduction of the Revolving Commitments to be made within the last two Business Days of any Interest Period, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of such reduction; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such reduction shall not become effective until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Revolving Commitments or Delayed Draw Term Commitments under paragraph (b) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

SECTION 2.08. Repayment of Loans; Evidence of Debt. (a) Each Borrower (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign Borrower Obligations) hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender to such Borrower on the Revolving Maturity Date and (ii) the Company hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.09.

(b) The records maintained by the Administrative Agent and the Lenders shall be prima facie evidence of the existence and amounts of the obligations of the Borrowers in respect of the Loans, LC Disbursements, interest and fees due or accrued hereunder; provided that the failure of the Administrative Agent or any Lender to maintain such records or any error therein shall not in any manner affect the obligation of the Borrowers to pay any amounts due hereunder in accordance with the terms of this Agreement.

(c) Any Lender may request that Loans of any Class made by it be evidenced by a promissory note. In such event, each applicable Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times

(including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns) unless such Lender or assignee notifies the applicable Borrower that it does not require a promissory note, in which case such Lender or assignee, as applicable, shall promptly return such promissory note to the Borrower for cancellation.

SECTION 2.09. Amortization and Repayment of Term Loans. (a) The Company shall repay Term Borrowings on the last day of each March, June, September and December, beginning with December 31, 2019 and ending with the last such day to occur prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the sum of (x) the aggregate principal amount of the Initial Term Loans funded on the Effective Date and (y) the aggregate principal amount of the Delayed Draw Term Loans outstanding on the Delayed Draw Funding Date (as such amount may be adjusted pursuant to paragraph (c) of this Section). The Company shall repay Incremental Term Loans of any Series in such amounts and on such date or dates as shall be specified therefor in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series (as such amounts may be adjusted pursuant to paragraph (c) of this Section or pursuant to such Incremental Facility Agreement).

(b) To the extent not previously paid, (i) all Term Loans shall be due and payable on the Term Maturity Date and (ii) all Incremental Term Loans of any Series shall be due and payable on the Incremental Term Maturity Date applicable thereto.

(c) Any prepayment of a Term Borrowing of any Class shall be applied in direct order to reduce the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section; provided that any prepayment of a Term Borrowing of any Class made pursuant to Section 2.10(a) shall be applied to reduce the subsequent scheduled repayments of Term Borrowings of such Class to be made pursuant to this Section as directed by the Company. In the event that Term Loans of any Class are converted into a new Class of Term Loans pursuant to a Permitted Amendment effected pursuant to Section 2.21, then the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section will not be reduced or otherwise affected by such transaction (except to the extent that the final scheduled payment shall be reduced thereby).

(d) Prior to any repayment of any Term Borrowings of any Class under this Section, the Company shall select the Borrowing or Borrowings of the applicable Class to be repaid and shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of such selection not later than 11:00 a.m., New York City time, three Business Days before the scheduled date of such repayment. Each repayment of a Term Borrowing shall be applied ratably to the Loans included in the repaid Term Borrowing. Repayments of Term Borrowings shall be accompanied by accrued interest on the amounts repaid.

SECTION 2.10. Prepayment of Loans. (a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on each occasion that (i) other than as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit in accordance with Section 1.06, (A) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (B) the Foreign Borrower Exposure exceeds \$400,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$400,000,000 or (ii) as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit pursuant to Section 1.06, (x) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (y) the Foreign Borrower Exposure exceeds \$420,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$420,000,000.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of the Company or any Subsidiary in respect of any Prepayment Event, the Company shall, on the day such Net Proceeds are received (or, in the case of a Prepayment Event described in clause (a) or (b) of the definition of the term "Prepayment Event", within five Business Days after such Net Proceeds are received), prepay Term Borrowings in an amount equal to such Net Proceeds; provided that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event", if the Company shall, prior to the date of the required prepayment, deliver to the Administrative Agent a certificate of a Financial Officer of the Company to the effect that the Company intends to cause the Net Proceeds from such event (or a portion thereof specified in such certificate) to be applied within one year after receipt of such Net Proceeds to acquire, repair or restore assets to be used or useful in the business of the Company or the Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, of any Subsidiaries), or to consummate any Permitted Acquisition of Persons that will become, or assets that will be held by, Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, that will become Subsidiaries or be held by any Subsidiaries) permitted hereunder (but not of other Persons), and certifying that no Default has occurred and is continuing, then no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds from such event (or the portion of such Net Proceeds specified in such certificate, if applicable) except to the extent of any such Net Proceeds that have not been so applied by the end of such one-year period (or within a period of 180 days thereafter if by the end of such initial one-year period the Company or one or more Domestic Subsidiaries (or, to the extent permitted above, Foreign Subsidiaries) shall have entered into an agreement with a third party to acquire, repair or restore such assets, or to consummate such Permitted Acquisition, with such Net Proceeds), at which time a prepayment shall be required in an amount equal to the Net Proceeds that have not been so applied.

(d) In the event and on each occasion that, as a result of the receipt of any cash proceeds by the Company or any Subsidiary in connection with any Disposition of any asset or

any other event, the Company or any other Loan Party would be required by the terms of any Indebtedness that is Subordinated Indebtedness with respect to the Loan Document Obligations (or any Refinancing Indebtedness in respect thereof) to repay, prepay, redeem, repurchase or defease, or make an offer to repay, prepay, redeem, repurchase or defease, any such Subordinated Indebtedness (or such Refinancing Indebtedness) or any other Subordinated Indebtedness, then, prior to the time at which it would be required to make such repayment, prepayment, redemption, repurchase or defeasance or to make such offer, the Company shall, if and to the extent it would reduce, eliminate or satisfy any such requirement, (i) prepay Term Borrowings or (ii) use such cash proceeds to acquire assets in one or more transactions permitted hereby.

(e) Following the end of each fiscal year of the Company, commencing with the fiscal year ending December 31, 2020, the Company shall prepay Term Borrowings in an aggregate amount equal to the Specified ECF Percentage of Excess Cash Flow for such fiscal year; provided that such amount shall be reduced by the aggregate amount of voluntary prepayments of Term Borrowings and Revolving Borrowings (but only to the extent accompanied by a permanent reductions of the corresponding Commitment) made pursuant to this Section 2.10 during such fiscal year and after the end of such fiscal year but prior to the date on which the prepayment pursuant to this paragraph (e) for such fiscal year is required to have been made, excluding any such prepayments to the extent financed from Excluded Sources. Each prepayment pursuant to this paragraph shall be made no later than the date that is five Business Days following the date on which financial statements are required to be delivered pursuant to Section 5.01(a) with respect to the fiscal year for which Excess Cash Flow is being.

(f) Prior to any optional or mandatory prepayment of Borrowings under this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (g) of this Section. In the event of any mandatory prepayment of Term Borrowings made at a time when Term Borrowings of more than one Class are outstanding, the Company shall select Term Borrowings to be prepaid so that the aggregate amount of such prepayment is allocated among the Term Borrowings pro rata based on the aggregate principal amounts of outstanding Borrowings of each such Class.

(g) The applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of any optional prepayment and, to the extent practicable, any mandatory prepayment hereunder not later than 12:00 noon, Local Time, on the date of such prepayment; provided that, in the case of any prepayment of Eurocurrency Loans to be made within the last two Business Days of the Interest Period relating to such Eurocurrency Loan, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of prepayment; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such Borrowing shall not be prepaid until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a

reasonably detailed calculation of the amount of such prepayment; provided that (A) if a notice of optional prepayment is given in connection with a conditional notice of termination of the Revolving Commitments or the Delayed Draw Term Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07 and (B) a notice of prepayment of Term Borrowings pursuant to paragraph (a) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type and currency as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12 together with any additional amounts required pursuant to Section 2.15.

(h) Notwithstanding the foregoing, the Company shall not be required to prepay any Term Borrowings with any Foreign Source Prepayment to the extent the repatriation to the Company of such Foreign Source Prepayment (i) would result in a material tax liability to the Company or any of its Subsidiaries, (ii) is prohibited or restricted by any applicable Requirement of Law or (iii) would conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such Foreign Source Prepayment shall not be required to prepay any Term Borrowings pursuant to Section 2.10(c); provided that, if such repatriation would no longer result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any applicable Requirement of Law or conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such an amount equal to such Foreign Source Prepayment shall be promptly repatriated to the Company and such proceeds shall thereafter be applied to the repayment of Term Borrowings pursuant to Section 2.10(c); and provided, further, that in the case of any Prepayment Event in respect of which the Net Proceeds are less than \$20,000,000, no prepayment shall be required to be made in respect of any Net Proceeds as to which such repatriation would continue to result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any applicable Requirement of Law or conflict with the fiduciary duties on the date 365 days following such Prepayment Event.

(i) In the event that, on or prior to the date that is six months after the Effective Date, the Company (x) prepays, repays, refinances, substitutes or replaces any Term Loans in connection with a Repricing Transaction (including any prepayment made as a result of clause (c) of the definition of Prepayment Event that constitutes a Repricing Transaction), or (y) effects any amendment, waiver or other modification of, or consent under, this Agreement resulting in a Repricing Transaction, the Company shall pay to the Administrative Agent, for the ratable account of each of the applicable Term Lenders, (A) in the case of clause (x), a premium of 1.00% of the aggregate principal amount of the Term Loans so prepaid, repaid, refinanced, substituted or replaced and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate

principal amount of the Term Loans outstanding immediately prior to such amendment, waiver, modification or consent that are the subject of such Repricing Transaction. If, on or prior to the date that is six months after the Effective Date, all or any portion of the Term Loans held by any Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 2.18 as a result of, or in connection with, such Lender not consenting with respect to any amendment, waiver, modification or consent referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

SECTION 2.11. Fees. (a) The Company agrees to pay to the Administrative Agent (i) for the account of each Revolving Lender a commitment fee which shall accrue at the Applicable Rate on the daily unused amount of the Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Revolving Commitment terminates and (ii) for the account of each Delayed Draw Term Lender, a ticking fee which shall accrue at the Applicable Ticking Fee Rate on the daily unused amount of the Delayed Draw Term Commitment of such Lender during the period from and including the Effective Date to but excluding the earlier of (x) the date on which such Delayed Draw Term Commitment terminates and (y) the Delayed Draw Funding Date. Accrued commitment and ticking fees in respect of the Revolving Commitments or the Delayed Draw Term Commitments shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitments and Delayed Draw Term Commitments terminate, as applicable, commencing on the first such date to occur after the date hereof. All commitment and ticking fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Revolving Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Lender.

(b) Each Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit issued for the account of such Borrower, which shall accrue at the Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans on the daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to each Issuing Bank a fronting fee (payable in Dollars), which shall accrue at the rate or rates per annum separately agreed upon between the Company and such Issuing Bank on the average daily amount of the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any such LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of

any Letter of Credit or processing of drawings thereunder. In addition, if, as contemplated by Section 2.04(c), any Letter of Credit is cash collateralized and remains outstanding after the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be), the applicable Borrower will pay a fee (an “LC Fee”) to the Issuing Bank in respect of such Letter of Credit which shall accrue at the Applicable Rate that would be used to determine the interest rate applicable to Eurocurrency Revolving Loans (assuming such Loans were outstanding during such period) on the daily amount of the LC Exposure attributable to such Letter of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be) but excluding the date on which such Issuing Bank ceases to have any LC Exposure in respect of such Letter of Credit. Participation fees, fronting fees and other fees payable to an Issuing Bank in respect of its Letters of Credit accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees (other than LC Fees) shall be payable on the date on which the Revolving Commitments terminate and any such fees, including LC Fees, accruing after the date on which the Revolving Commitments terminate shall be payable on demand and, in the case of LC Fees and fronting fees accruing after the Revolving Maturity Date (or Subsequent Maturity Date, as applicable), on the date on which the relevant Issuing Bank ceases to have LC Exposure in respect of the Letter of Credit in respect of which such fees are payable. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees, LC Fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All LC Fees shall be payable in the currency in which the applicable Letter of Credit was denominated.

(c) The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d) All fees payable hereunder shall be paid in Dollars on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Revolving Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.12. Interest. (a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted Eurocurrency Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any



Loan, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section 2.12 or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Revolving Loans as provided in paragraph (a) of this Section 2.12.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of a Revolving Loan, upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of a Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion. All interest shall be payable in the currency in which the applicable Loan is denominated.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest on Borrowings denominated in Sterling shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Eurocurrency Rate or Adjusted Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) If as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason (excluding any restatement of or other adjustment to the financial statements of the Company with respect to the initial adoption by the Company of Mark-to-Market Pension Accounting as described in Annex A), the Company or the Administrative Agent determines that (i) the Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Leverage Ratio would have resulted in a higher Applicable Rate for any period, the Company shall be obligated to pay to the Administrative Agent, for the accounts of the applicable Lenders and Issuing Banks, promptly on demand by the Administrative Agent (or after the occurrence of any Event of Default under Article VII (i) or (j) with respect to any Borrower, automatically and without further action by the Administrative Agent, any Lender or any Issuing Bank) an amount equal to the excess of the interest and fees (including participation fees with respect to Letters of Credit and LC Fees, as applicable) that should have been paid for such period over the amount of interest and fees actually paid for such period. The Company's obligations under this paragraph (f) shall survive the termination of the Commitments and the repayment of the other Obligations hereunder for a period of 90 days.

SECTION 2.13. Alternate Rate of Interest. (a) In the case of (x) Incremental Term A-2021 Loans and (y) Revolving Loans:

(i) Subject to clauses (ii), (iii), (iv), (v), (vi) and (vii) of this Section 2.13(a), if prior to the commencement of any Interest Period for a Eurocurrency Borrowing of the applicable Class:

(A) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the applicable Adjusted Eurocurrency Rate or Eurocurrency Rate (including because the applicable Screen Rate is not available or published on a current basis), for the applicable currency and such Interest Period provided that no Benchmark Transition Event shall have occurred at such time; or

(B) the Administrative Agent is advised by the Required Incremental Term A-2021 Lenders and Revolving Lenders that the applicable Adjusted Eurocurrency Rate or Eurocurrency Rate for the applicable currency and such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower, or the Borrower Agent on its behalf, and the applicable Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies such Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist, (1) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective, (2) if any Borrowing Request requests a Eurocurrency Revolving Borrowing in Dollars, such Borrowing shall be made as an ABR Borrowing and (3) if any Borrowing Request requests a Eurocurrency Borrowing in Euros or Sterling, then such request shall be ineffective, in each case with respect to the applicable Class; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then the other Type of Borrowings shall be permitted. Furthermore, if any applicable Eurocurrency Loan in any currency is outstanding on the date of receipt by the applicable Borrower, or the Borrower Agent on its behalf, of the notice from the Administrative Agent referred to in this Section 2.13(a)(i) with respect to a Eurocurrency Rate applicable to such Eurocurrency Loan, then (x) if such Eurocurrency Loan is denominated in Dollars, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, an ABR Loan denominated in Dollars on such day or (y) if such Eurocurrency Loan is denominated in Euros or Sterling, then such Loan shall, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), at the election of the applicable Borrower, or the Borrower Agent on its behalf, prior to

such day: (a) be prepaid by the applicable Borrower on such day or (b) be converted by the Administrative Agent to, and (subject to the remainder of this subclause (b)) shall constitute, an ABR Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of such currency) on such day (it being understood and agreed that if the applicable Borrower does not so prepay such Loan on such day by 12:00 p.m. (New York City time), the Administrative Agent is authorized to effect such conversion of such Eurocurrency Loan into an ABR Loan denominated in Dollars), and, in the case of such subclause (b), upon the receipt by the such Borrower, or the Borrower Agent on its behalf, of notice from the Administrative Agent that the circumstances giving rise to the aforementioned notice no longer exist, such ABR Loan denominated in Dollars shall then be converted by the Administrative Agent to, and shall constitute, a Eurocurrency Loan denominated in such original currency (in an amount equal to the Alternative Currency Equivalent of such currency) on the day of such notice being given to such Borrower, or the Borrower Agent on its behalf, by the Administrative Agent.

(ii) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (A) if a Benchmark Replacement is determined in accordance with clause (a) or (b) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (B) if a Benchmark Replacement is determined in accordance with clause (c) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth Business Day after the date notice of such Benchmark Replacement is provided to the applicable Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Majority in Interest of the Incremental Term A-2021 Lenders and/or Revolving Lenders, as applicable.

(iii) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, solely with respect to an applicable Dollar-denominated Loan, if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and

subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that this clause (iii) shall not be effective unless the Administrative Agent has delivered to the applicable Lenders and the Borrowers, or the Borrower Agent on their behalf, a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.

(iv) In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(v) The Administrative Agent will promptly notify the Borrowers, or the Borrower Agent on their behalf, and the applicable Lenders of (A) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event or an Early Opt-In Election, as applicable, and its related Benchmark Replacement Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (vi) below and (E) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any applicable Lender (or group of Lenders) pursuant to this Section 2.13(a), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.13(a).

(vi) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or the LIBO 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 or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" 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 or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(vii) Upon the receipt by a Borrower, or the Borrower Agent on its behalf, of notice of the commencement of a Benchmark Unavailability Period, any Borrower may revoke any request for an applicable Eurocurrency Borrowing of, conversion to or continuation of Eurocurrency Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, either (A) such Borrower will be deemed to have converted any request for an applicable Eurocurrency Borrowing denominated in Dollars into a request for a Borrowing of or conversion to ABR Loans or (B) any applicable Eurocurrency Borrowing denominated in Euros or Sterling shall be ineffective. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any applicable Eurocurrency Loan in any currency is outstanding on the date of the receipt by the applicable Borrower, or the Borrower Agent on its behalf, of notice of the commencement of a Benchmark Unavailability Period with respect to a Eurocurrency Rate applicable to such Eurocurrency Loan, then (1) if such Eurocurrency Loan is denominated in Dollars, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, an ABR Loan denominated in Dollars on such day or (2) if such Eurocurrency Loan is denominated in Euros or Sterling, then such Loan shall, on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), at the election of the Borrower, or Borrower Agent on its behalf, prior to such day: (x) be prepaid by such Borrower on such day or (y) be converted by the Administrative Agent to, and (subject to the remainder of this subclause (y)) shall constitute, an ABR Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of such currency) on such day (it being understood and agreed that if the applicable Borrower does not so prepay such Loan on such day by 12:00 p.m. (New York City time), the Administrative Agent is authorized to effect such conversion of such Eurocurrency Loan into an ABR Loan denominated in Dollars), and, in the case of such subclause (y), upon any subsequent implementation of a Benchmark Replacement in respect of such currency pursuant to this Section 2.13(a), such ABR Loan denominated in Dollars shall then be converted by the Administrative Agent to, and shall constitute, a Eurocurrency Loan denominated in such original currency (in an amount equal to the Alternative Currency Equivalent of such currency) on the day of such implementation, giving effect to such Benchmark Replacement in respect of such currency.

**(b) In the case of any Loan other than Incremental Term A-2021 Loans and Revolving Loans:**

**(i)** If prior to the commencement of any Interest Period for a Eurocurrency Borrowing of any Class:

~~(A)~~ ~~(i)~~ the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted Eurocurrency Rate for such Interest Period (including because the applicable Screen Rate is not available or published on a current basis), for the applicable currency; or

~~(B)~~ ~~(ii)~~ the Administrative Agent is advised by a Majority in Interest of the Lenders of such Class that the Adjusted Eurocurrency Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Eurocurrency Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower, or the Borrower Agent on its behalf, and the Lenders of such Class by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies such Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist (the Administrative Agent having determined that such circumstances affecting the relevant market no longer exist and adequate and reasonable means do exist for determining the Adjusted Eurocurrency Rate or the Administrative Agent having been notified by a Majority in Interest of the Lenders of such Class that such circumstances described in clause ~~(B)~~ above no longer exist), ~~(i)~~ in the case of Borrowings denominated in Dollars, ~~(A)~~ any Interest Election Request that requests the conversion of any Borrowing of such Class to, or continuation of any Borrowing of such Class as, a Eurocurrency Borrowing shall be ineffective, and such Borrowing shall be continued as an ABR Borrowing, ~~(ii)~~ any Borrowing Request for a Eurocurrency Borrowing of such Class shall be made as a request for an ABR Borrowing, and ~~(ii2)~~ in the case of Borrowings denominated in Euros or Sterling, until the Administrative Agent notifies such Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, the rate of interest that shall apply to such Borrowing shall be such rate as the Administrative Agent shall determine adequately and fairly reflects the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period plus the Applicable Rate then in effect for Eurocurrency Loans. If an unavailability notice is delivered in respect of any Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, may elect by notice to the Administrative Agent to revoke its request that such Borrowing be made or continued, in which event Section 2.15 shall not apply (except that Lenders shall be entitled to receive their actual out-of-pocket losses, costs and expenses, if any, in connection with such Borrowing not being made or continued).

~~(ii)(b)~~ If, at any time, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that ~~(iA)~~ the circumstances set forth in paragraph ~~(ai)(iA)~~ of this Section 2.13(b) have arisen and such circumstances are unlikely to be temporary or ~~(iiB)~~ the circumstances set forth in paragraph ~~(ai)(iA)~~ of this Section 2.13(b) have not arisen but either (w) the supervisor for the administrator of the applicable Screen Rate has made a public statement that the administrator of such Screen Rate is insolvent (and there is no successor administrator that will continue publication of such Screen Rate), (x) the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of such Screen Rate), (y) the supervisor for the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the applicable Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which such Screen Rate may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the applicable Screen Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but such related changes shall not include a reduction of the Applicable Rate); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders of each Class stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause ~~(b)(bii)~~ (but, in the case of the circumstances described in clause ~~(iiB)(w)~~, clause ~~(iiB)(x)~~ or clause ~~(iiB)(y)~~ of the first sentence of this Section 2.13(b)~~(ii)~~, only to the extent the applicable Screen Rate for the applicable currency and such Interest Period is not available or published at such time on a current basis), ~~(x1)~~ any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective and ~~(y2)~~ if any Borrowing Request requests a Eurocurrency Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.14. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the

account of, or credit extended by, any Lender or Issuing Bank (except any such reserve requirement reflected in the Adjusted Eurocurrency Rate);

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

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), to increase the cost to such Lender, Issuing Bank or other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or any other amount but excluding lost profits), then, from time to time upon request of such Lender, Issuing Bank or other Recipient, the applicable Borrower will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs or expenses incurred or reduction suffered; provided that the Company shall not be liable for such compensation (A) unless such Lender or Issuing Bank is generally charging such amounts to similarly situated borrowers under comparable syndicated credit facilities or (B) if the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital requirements or liquidity has had or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then, from time to time upon request of such Lender or Issuing Bank, the applicable Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, or such other Recipient, as the case may be, as specified in paragraph (a) or (b) of this Section delivered to the Company shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.



(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.15. Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert or continue any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto other than as a result of a failure to fund when the conditions precedent are met, (d) the failure to prepay any Eurocurrency Loan on a date specified therefor in any notice of prepayment given by any Borrower (whether or not such notice may be revoked in accordance with the terms hereof) or (e) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the applicable Borrower, or the Borrower Agent on its behalf, pursuant to Section 2.18 or pursuant to Section 2.20(e), then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted Eurocurrency Rate that would have been applicable to such Loan (but not including the Applicable Rate applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender delivered to the applicable Borrower, or the Borrower Agent on its behalf, and setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.16. Taxes. (a) Withholding of Taxes; Gross-Up. Each payment by a Loan Party under this Agreement or any other Loan Document, whether to the Administrative Agent, any Lender or Issuing Bank or any other Person to which any such payment is owed (each of the foregoing being referred to as a "Recipient"), shall be made without deduction or withholding for any Taxes, unless such withholding is required by any applicable law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required

to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of deducted or withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority pursuant to this Agreement, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign Borrower Obligations) indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with this Agreement (including amounts paid or payable under this paragraph) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 20 days after the Recipient delivers to any Loan Party a certificate stating the amount of any Indemnified Taxes so paid or payable by such Recipient and describing in reasonable detail the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, the Administrative Agent shall be indemnified only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with this Agreement and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 10 days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under this Agreement shall deliver to each Borrower and the Administrative Agent, at the time or times reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by such Borrower or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by a Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by a Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A) through (E) of paragraph (f)(ii) below) shall not be required if in the Lender's judgment such completion, execution or submission would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of a Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 2.16(f). If any form or certification previously delivered pursuant to this Section 2.16(f) expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly notify the applicable Borrower, or the Borrower Agent on its behalf, and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so. Notwithstanding any other provision of this paragraph, a Lender shall not be required to deliver any form pursuant to this paragraph that it is not legally able to deliver.

(ii) Without limiting the generality of the foregoing, each Lender shall, if it is legally eligible to do so, deliver to each Borrower and the Administrative Agent (in such number of copies as is reasonably requested by such Borrower and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) in the case of a Lender that is a U.S. Person, IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding Tax;

(B) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (1) with respect to payments of interest under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(C) in the case of a Foreign Lender for whom payments under this Agreement constitute income that is effectively connected with such Lender's

conduct of a trade or business in the United States of America, IRS Form W-8ECI;

(D) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, both (1) IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate substantially in the form of Exhibit I-1, Exhibit I-2, Exhibit I-3 or Exhibit I-4 (each, a “U.S. Tax Certificate”), as applicable, to the effect that such Lender is not (x) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (y) a “10 percent shareholder” of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code or (z) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code;

(E) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender), (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided that if such Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax, together with such supplementary documentation as shall be necessary to enable the applicable Borrower or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld.

(iii) If a payment made to a Lender under this Agreement would be subject to U.S. Federal withholding Tax or reporting requirements imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender’s obligations under FATCA and, as necessary, to determine the amount to deduct and withhold or to report from such payment. Solely for purposes of this Section 2.16(f)(iii), the term “FATCA” shall include any amendments made to FATCA after the Effective Date.

(g) Additional United Kingdom Tax Matters. (i) Subject to (ii) below, each Lender and each Loan Party which makes a payment to such Lender shall cooperate in

completing any procedural formalities necessary for such Loan Party to obtain authorization to make such payment without a UK Tax Deduction, including making and filing an appropriate application for relief under an applicable UK Treaty.

(ii) A UK Treaty Lender that (x) holds a passport under the HMRC DT Treaty Passport scheme and (y) wishes such scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence: (A) where the UK Treaty Lender is a Lender on the date of this Agreement, in such Lender's Tax Administrative Questionnaire; or (B) where the UK Treaty Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption, and upon satisfying either clause (A) or (B) above, such Lender shall have satisfied its obligation under paragraph (g)(i) above but that UK Treaty Lender shall have an obligation to cooperate further with the relevant Credit Party in accordance with Section 2.16(g)(iii).

(iii) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:

(A) a Loan Party making a payment to such Lender has not made a UK Borrower DTTP Filing in respect of such Lender; or

(B) a Loan Party making a payment to such Lender has made a UK Borrower DTTP Filing in respect of such Lender but:

(1) such UK Borrower DTTP Filing has been rejected by HMRC; or

(2) HMRC has not given such Loan Party authority to make payments to such Lender without a UK Tax Deduction within 30 Business Days of the date of such UK Borrower DTTP Filing;

and in each case, the relevant Loan Party has notified that Lender in writing of either (1) or (2) above, then such Lender and such Loan Party shall co-operate in completing any additional procedural formalities necessary for such Loan Party to obtain authorization to make that payment without a UK Tax Deduction.

(iv) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Loan Party shall make a UK Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.

(v) Each Loan Party shall, promptly on making a UK Borrower DTTP Filing, deliver a copy of such UK Borrower DTTP Filing to the Administrative Agent for delivery to the relevant Lender.

(vi) A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender (A) in the case of a Lender that is a Lender on the date of this Agreement, gives a UK Tax Confirmation to the Company by entering into the Agreement; and (B) in the case of a Lender that becomes a Lender after the date of this Agreement, shall give a Tax Confirmation to the Company in the Assignment and Assumption that it executes. A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender shall promptly notify the Company and the Administrative Agent if there is any change in the position from that set out in the UK Tax Confirmation; provided that the Lender shall, where such change occurs as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of that change.

(vii) Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

(A) not a UK Qualifying Lender;

(B) a UK Qualifying Lender (that is not a UK Treaty Lender); or

(C) a UK Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire; or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(g)(vii), then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not a UK Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement shall not be invalidated by any failure of a Lender to comply with this Section 2.16(g)(vii). Each Lender shall promptly notify the Company and the Administrative Agent if it has ceased to be a UK Qualifying Lender; provided that the Lender shall, where that Lender ceases to be a UK Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be a UK Qualifying Lender.

(viii) Each UK Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of a UK Treaty with respect to payments made by any UK Borrower hereunder.

(h) Additional Irish Withholding Tax Matters.

(i) Each Lender and each Irish Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Irish Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of Ireland, including making and filing an appropriate application for relief under an applicable Irish Treaty and the provision by the Lender to each Irish Borrower of such authorization granted by the Revenue

Commissioners of Ireland entitling the Irish Borrower to pay such Lender without withholding or deduction for Taxes imposed under the laws of Ireland.

(ii) Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

- (A) not an Irish Qualifying Lender;
- (B) an Irish Qualifying Lender (that is not an Irish Treaty Lender); or
- (C) an Irish Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(h)(ii), then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not an Irish Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement and shall not be invalidated by any failure of a Lender to comply with this Section 2.16(h)(ii). Any Lender that ceases to be an Irish Qualifying Lender shall promptly notify the Administrative Agent and the Borrowers; provided that the Lender shall, where that Lender ceases to be an Irish Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be an Irish Qualifying Lender.

(iii) Each Irish Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of an Irish Treaty with respect to payments made by any Irish Borrower hereunder.

(i) Additional Dutch Withholding Tax Matters. (i) Each Lender and each Dutch Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Dutch Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of the Netherlands.

(ii) Each Lender shall notify the Dutch Borrower and Administrative Agent if such Lender determines in its sole discretion that it ceases to be entitled to claim the benefits of an income tax treaty to which the Netherlands is a party with respect to payments made by any Dutch Borrower hereunder.

(j) Treatment of Certain Refunds. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of Recipient and without

interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such Recipient, shall repay to such Recipient the amount paid to such Recipient pursuant to the prior sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will any Recipient be required to pay any amount to any indemnifying party pursuant to this paragraph if such payment would place such Recipient in a less favorable position (on a net after-Tax basis) than such Recipient would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Recipient to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(k) (i) All amounts expressed to be payable under a Loan Document by any party to a Loan Document (a “Party”) to a Lender or Administrative Agent which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (ii) below, if VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent to any Party under a Loan Document and such Lender or Administrative Agent is required to account to the relevant tax authority for the VAT, that Party must pay to such Lender or Administrative Agent (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Lender or Administrative Agent must promptly provide an appropriate VAT invoice to that Party).

(ii) If VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent (the “Supplier”) to any Recipient under a Loan Document, and any Party other than the Recipient (the “Relevant Party”) is required by the terms of any Loan Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(A) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (A) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

(B) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.



(iii) Where a Loan Document requires any Party to reimburse or indemnify a Lender or Administrative Agent for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Lender or Administrative Agent for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender or Administrative Agent reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 2.16(k) to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member of the European Union).

(v) In relation to any supply made by a Lender or Administrative Agent to any Party under a Loan Document, if reasonably requested by such Lender or Administrative Agent, that Party must promptly provide such Lender or Administrative Agent with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Lender or Administrative Agent's VAT reporting requirements in relation to such supply.

(l) Issuing Bank. For purposes of this Section 2.16, the term "Lender" shall include each Issuing Bank.

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

SECTION 2.17. Payments Generally; Pro Rata Treatment; Sharing of Setoffs. (a) Each Borrower shall make each payment required to be made by it hereunder or under any other Loan Document prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 12:00 noon, Local Time, in the case of any payment in respect of a Loan or an LC Disbursement, and prior to 12:00 noon, New York City time, in the case of any other payment), on the date when due, in immediately available funds, without any defense, setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent, except that payments required to be made directly to any Issuing Bank shall be so made, payments pursuant to Sections 2.14, 2.15, 2.16, 2.22 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payment received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be

due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under any Loan Document of principal or interest in respect of any Loan denominated in Euros or Sterling or of any breakage indemnity under Section 2.15 in respect of any such Loan shall be made in the currency in which such Loan is denominated. All other payments required to be made by any Loan Party under any Loan Document shall be made in Dollars except that any amounts payable under Section 2.14, 2.15, 2.16, 2.22 or 9.03 (or any indemnification or expense reimbursement provision of any other Loan Document) that are invoiced in a currency other than Dollars shall be payable in the currency so invoiced.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied towards payment of the amounts then due hereunder ratably among the parties entitled thereto, in accordance with the amounts then due to such parties.

(c) Except to the extent that this Agreement provides for payments to be disproportionately allocated to or retained by a particular Lender or group of Lenders (including in connection with the payment of interest or fees at different rates and the repayment of principal amounts of Term Loans at different times as a result of Permitted Amendments effected under Section 2.21), each Lender agrees that if it shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the amount of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amounts of principal of and accrued interest on their Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by a Borrower pursuant to and in accordance with the express terms of this Agreement (as in effect from time to time) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any Person that is an Eligible Assignee (as such term is defined from time to time), including the application of funds arising from the existence of a Defaulting Lender. Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the applicable Borrower, or the Borrower Agent on its behalf, prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or Issuing Banks hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or Issuing Banks, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it hereunder to or for the account of the Administrative Agent or any Issuing Bank, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations in respect of such payment until all such unsatisfied obligations have been discharged or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender pursuant to Sections 2.04(d), 2.04(f), 2.05(b), 2.17(c), 2.17(d) and 9.03(c), in each case in such order as shall be determined by the Administrative Agent in its discretion.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.14 or 2.22, or if a Loan Party is required to pay any additional amount to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall (at the request of such Borrower or the Borrower Agent) use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14, 2.16 or 2.22, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Each Borrower hereby agrees to pay all reasonable out of pocket costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

(b) If (i) any Lender requests compensation under Section 2.14 or 2.22, (ii) any Loan Party is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender has become a Defaulting Lender or (iv) any Lender has failed to consent to a proposed amendment, waiver, discharge or termination that under Section 9.02 requires the consent of all the Lenders (or all the affected Lenders or all the Lenders of the affected Class) and with respect to which the Required Lenders (or, in circumstances where Section 9.02 does not require the consent of the Required Lenders, a Majority in Interest of the Lenders of the affected Class) shall have granted their

consent, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement and the other Loan Documents (or, in the case of any such assignment and delegation resulting from a failure to provide a consent, all its interests, rights and obligations under this Agreement and the other Loan Documents as a Lender of a particular Class) to an Eligible Assignee that shall assume such obligations (which may be another Lender, if a Lender accepts such assignment and delegation); provided that (A) the Company shall have received the prior written consent of the Administrative Agent (and, if a Revolving Commitment is being assigned, each Issuing Bank), which consent shall not unreasonably be withheld (if such consent would be required under Section 9.04 in connection with an assignment to such Person), (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and, if applicable, participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, (if applicable, in each case only to the extent such amounts relate to its interest as a Lender of a particular Class) from the assignee (in the case of such principal and accrued interest and fees) or the Company (in the case of all other amounts), (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 2.14 or 2.22 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments and (D) in the case of any such assignment and delegation resulting from the failure to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver, discharge or termination can be effected. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation have ceased to apply. Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto.

SECTION 2.19. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Revolving Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Revolving Lender is a Defaulting Lender:

(a) commitment fees shall cease to accrue on the unused amount of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.11(a);

(b) the Revolving Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or any other requisite Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 9.02), in each case, except to the extent expressly provided in the second to last sentence of Section 9.02(b);

(c) if any LC Exposure exists at the time such Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (with the term “Applicable Percentage” meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph (c), the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at the time of such reallocation calculated disregarding the Revolving Commitments of the Defaulting Lenders at such time) but only to the extent that the sum of all Non-Defaulting Lenders’ Revolving Exposures plus such Defaulting Lender’s LC Exposure does not exceed the sum of all Non-Defaulting Lenders’ Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Banks the portion of such Defaulting Lender’s LC Exposure that has not been reallocated in accordance with the procedures set forth in Section 2.04(i) for so long as such LC Exposure is outstanding;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender’s LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay participation fees to such Defaulting Lender pursuant to Section 2.11(b) with respect to such portion of such Defaulting Lender’s LC Exposure for so long as such Defaulting Lender’s LC Exposure is cash collateralized;

(iv) if any portion of the LC Exposure of such Defaulting Lender is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.11(a) and 2.11(b) shall be adjusted to give effect to such reallocation; and

(v) if all or any portion of such Defaulting Lender’s LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all participation fees payable under Section 2.11(b) with respect to such Defaulting Lender’s LC Exposure shall be payable to the Issuing Banks (and allocated among them ratably based on the amount of such Defaulting Lender’s LC Exposure attributable to Letters of Credit issued by each Issuing Bank) until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless in each case it is satisfied that the related exposure and the Defaulting Lender’s then outstanding

LC Exposure will be fully covered by the Revolving Commitments of the Non-Defaulting Lenders and/or cash collateral provided by the Borrowers in accordance with Section 2.19(c), and participating interests in any such issued, amended, reviewed or extended Letter of Credit will be allocated among the Non-Defaulting Lenders in a manner consistent with Section 2.19(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that (x) a Bankruptcy Event with respect to a Revolving Lender Parent shall have occurred following the date hereof and for so long as such Bankruptcy Event shall continue or (y) any Issuing Bank has a good faith belief that any Revolving Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless such Issuing Bank shall have entered into arrangements with the applicable Borrower, or the Borrower Agent on its behalf, or such Revolving Lender satisfactory to such Issuing Bank to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Company and each Issuing Bank each agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender (a "Restored Lender"), then the LC Exposure of the Revolving Lenders shall be reallocated in accordance with their Applicable Percentages and on such date such Restored Lender shall purchase at par such of the Revolving Loans of the other Revolving Lenders as the Administrative Agent shall determine may be necessary in order for such Restored Lender to hold such Loans in accordance with its Applicable Percentage (with the term "Applicable Percentage" meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph, the percentage of the Aggregate Revolving Commitment represented by such Lender's Revolving Commitment at the time of such reallocation calculated including the Revolving Commitment of such Restored Lender but disregarding the Revolving Commitments of the Defaulting Lenders at such time).

Subject to Section 9.20 no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

**SECTION 2.20. Incremental Facilities.** (a) The Company may on one or more occasions, by written notice to the Administrative Agent, request (i) during the Revolving Availability Period, the establishment of Incremental Revolving Commitments and/or (ii) the establishment of Incremental Term Commitments, in an aggregate amount for all such Incremental Commitments not to exceed the sum of (A) \$150,000,000 plus (B) such amount as would not cause the Secured Leverage Ratio, computed on a Pro Forma Basis as of the last day of the fiscal quarter most recently ended prior to the effective date of the relevant Incremental Facility Agreement in respect of which financial statements have been delivered pursuant to Section 5.01(a) or (b), to exceed, 3.00 to 1.00; provided that for purposes of the pro forma calculations required by clauses (A) and (B) above, (x) the Incremental Revolving Commitments that would become effective in connection with the requested Incremental Facility shall be assumed to be fully drawn and (y) the calculation of clause (B) above shall be determined without giving effect to any incurrence under clause (A) above that is incurred substantially

simultaneously with amounts under clause (B) above; provided, further, that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (B) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof. Each such notice shall specify (A) the date on which the Company proposes that the Incremental Revolving Commitments or the Incremental Term Commitments, as applicable, shall be effective, which shall be a date not less than 10 Business Days (or such shorter period as may be agreed to by the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (B) the amount of the Incremental Revolving Commitments or Incremental Term Commitments, as applicable, being requested (it being agreed that (x) any Lender approached to provide any Incremental Revolving Commitment or Incremental Term Commitment may elect or decline, in its sole discretion, to provide such Incremental Revolving Commitment or Incremental Term Commitment and (y) any Person that the Company proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible Assignee and must be reasonably acceptable to the Administrative Agent and, in the case of any proposed Incremental Revolving Lender, each Issuing Bank.

(b) The terms and conditions of any Incremental Revolving Commitment and Loans and other extensions of credit to be made thereunder shall be, except as otherwise set forth herein, identical to those of the Revolving Commitments and Loans and other extensions of credit made thereunder, and shall be treated as a single Class with such Revolving Commitments and Loans; provided that (i) the maturity date of any Incremental Revolving Commitments shall be no sooner than, but may be later than, the Revolving Maturity Date, (ii) there shall be no mandatory reduction of any Incremental Revolving Commitments prior to the Revolving Maturity Date and (iii) the up-front fees applicable to any Incremental Revolving Facility shall be as determined by the Company and the Incremental Revolving Lenders providing such Incremental Facility. The terms and conditions of any Incremental Term Facility and the Incremental Term Loans to be made thereunder shall be, except as otherwise set forth herein or in the applicable Incremental Facility Agreement, identical to those of the Term Commitments and the Term Loans; provided that (i) the up-front fees, interest rates and amortization schedule applicable to any Incremental Term Facility and Incremental Term Loans shall be determined by the Company and the Incremental Term Lenders providing the relevant Incremental Term Commitments, (ii) the weighted average life to maturity of any Incremental Term Loans that are not Incremental Term A Loans shall be no shorter than, but may be longer than, the remaining weighted average life to maturity of the then outstanding Term Loans (determined without giving effect to any prepayments that reduce amortization), (iii) no Incremental Term Loan Maturity Date in respect of Incremental Term Loans that are not Incremental Term A Loans shall be earlier than, but may be later than, the Term Maturity Date, (iv) no Incremental Term Loan Maturity Date in respect of Incremental Term A Loans shall be earlier than, but may be later than, the Revolving Maturity Date and (v) if the Weighted Average Yield applicable to any Incremental Term Loans incurred prior to the date that is 18 months after the Effective Date exceeds by more than 0.50% per annum the applicable Weighted Average Yield payable pursuant to the terms of this Agreement, as amended through the date of such calculation, with respect to the Term Loans, then the Applicable Rate then in effect for the Term Loans shall

automatically be increased to eliminate such excess; provided, however, that any interest in the Applicable Rate required pursuant to the foregoing as a result of any interest rate “floor” shall be effected solely through the establishment of or increase to an interest rate “floor”. Notwithstanding the foregoing, the terms and conditions applicable to an Incremental Facility may include additional or different financial or other covenants or other provisions that are agreed between the Company and the Lenders providing such Incremental Facility which are applicable only during periods after the latest Maturity Date that is in effect on the date of effectiveness of such Incremental Facility. Any Incremental Term Facilities established pursuant to an Incremental Facility Agreement (other than any Incremental Term Facilities having terms identical to the Term Loans made on the Effective Date) that have identical terms, and any Incremental Term Loans made thereunder, shall be designated as a separate series (each a “Series”) of Incremental Term Commitments and Incremental Term Loans for all purposes of this Agreement. Notwithstanding anything to the contrary herein, each Incremental Facility and all extensions of credit thereunder shall be secured by the Collateral on a pari passu basis with the other Loan Document Obligations.

(c) The Incremental Commitments and Incremental Facilities relating thereto shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Company, each Incremental Lender providing such Incremental Commitments and Incremental Facilities and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) no Default or Event of Default shall have occurred and be continuing on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Term Commitments and the making of Loans and issuance of Letters of Credit thereunder to be made on such date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, except with respect to the requirement that there not have occurred and be continuing any Default under paragraph (a) or (b) of Article VII or any Default with respect to any Borrower under paragraph (i) or (j) of Article VII (which must be true both immediately prior to and immediately after giving effect to such Incremental Commitments and the making of Loans thereunder to be made on the date of effectiveness thereof), any condition set forth in this clause (i) may, at the Company’s option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be made and shall be true and correct (A) in the case of the representations and warranties qualified as to materiality, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (ii) may, at the Company’s option, be modified in a manner determined by the Company and the Incremental Lenders providing such Incremental Term Loan Commitments, as set forth in the applicable Incremental Facility Agreement, such that the only representations and warranties the accuracy of which is a condition to the effectiveness of such Incremental Term Commitments are the Specified Representations and the Acquired Company Representations, (iii) after giving



effect to such Incremental Commitments and the making of Loans pursuant thereto and the use of proceeds thereof (and based on the assumption that borrowings are effected in the full amount of any Incremental Revolving Commitments), the Company shall be in compliance on a Pro Forma Basis with the covenant contained in Section 6.12 recomputed as of the last day of the most-recently ended fiscal quarter of the Company for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b); provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (iii) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (iv) the Company shall make any payments required to be made pursuant to Section 2.15 in connection with such Incremental Commitments and the related transactions under this Section and (v) the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with any such transaction, including a certificate of a Financial Officer to the effect set forth in clauses (i), (ii) and (iii) above, together with reasonably detailed calculations demonstrating compliance with clause (iii) above. Each Incremental Facility Agreement may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section; provided that to the extent that any term of any such amendment could not be approved as an amendment of this Agreement by the Lenders providing such Incremental Commitments voting a single Class without the approval of any other Lender, such amendment will be subject to the approval of the requisite Lenders required under this Agreement.

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender, (i) such Incremental Lender shall be deemed to be a "Lender" (and a Lender in respect of Commitments and Loans of the applicable Class) hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and under the other Loan Documents and (ii) in the case of any Incremental Revolving Commitment, (A) such Incremental Revolving Commitment shall constitute (or, in the event such Incremental Lender already has a Revolving Commitment, shall increase) the Revolving Commitment of such Incremental Lender and (B) the Aggregate Revolving Commitment shall be increased by the amount of such Incremental Revolving Commitment, in each case, subject to further increase or reduction from time to time as set forth in the definition of the term "Revolving Commitment". Upon the effectiveness of any Incremental Revolving Commitment, the Revolving Exposure of the Incremental Revolving Lender holding such Commitment, and the Applicable Percentage of all the Revolving Lenders, shall automatically be adjusted to give effect thereto.

(e) On the date of effectiveness of any Incremental Revolving Commitments, each Revolving Lender shall assign to each Incremental Revolving Lender holding such Incremental Revolving Commitment, and each such Incremental Revolving Lender shall

purchase from each Revolving Lender, at the principal amount thereof (together with accrued interest), such interests in the Revolving Loans and participations in Letters of Credit outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans and participations in Letters of Credit will be held by all the Revolving Lenders (including such Incremental Revolving Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Incremental Revolving Commitment.

(f) Subject to the terms and conditions set forth herein and in the applicable Incremental Facility Agreement, each Lender holding an Incremental Term Commitment of any Series shall make a loan to the Company in an amount equal to such Incremental Term Commitment on the date specified in such Incremental Facility Agreement.

(g) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Company referred to in Section 2.20(a) and of the effectiveness of any Incremental Commitments, in each case advising the Lenders of the details thereof and, in the case of effectiveness of any Incremental Revolving Commitments, of the Applicable Percentages of the Revolving Lenders after giving effect thereto and of the assignments required to be made pursuant to Section 2.20(e).

SECTION 2.21. Loan Modification Offers. (a) The Company may on one or more occasions, by written notice to the Administrative Agent, make one or more offers (each, a "Loan Modification Offer") to all the Lenders of one or more Classes (each Class subject to such a Loan Modification Offer, an "Affected Class") to make one or more Permitted Amendments pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Company. Such notice shall set forth (i) the terms and conditions of the requested Permitted Amendment and (ii) the date on which such Permitted Amendment is requested to become effective (which shall not be less than 10 Business Days nor more than 30 Business Days after the date of such notice, unless otherwise agreed to by the Administrative Agent). Permitted Amendments shall become effective only with respect to the Loans and Commitments of the Lenders of the Affected Class that accept the applicable Loan Modification Offer (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Loans and Commitments of such Affected Class as to which such Lender's acceptance has been made.

(b) A Permitted Amendment shall be effected pursuant to a Loan Modification Agreement executed and delivered by each applicable Borrower, each applicable Accepting Lender and the Administrative Agent; provided that no Permitted Amendment shall become effective unless the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, stockholder resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection therewith. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each Loan Modification Agreement may, without the consent of any Lender other than the applicable Accepting Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the

opinion of the Administrative Agent, to give effect to the provisions of this Section, including any amendments necessary to treat the applicable Loans and/or Commitments of the Accepting Lenders as a new “Class” of loans and/or commitments hereunder; provided that, in the case of any Loan Modification Offer relating to Revolving Commitments or Revolving Loans, except as otherwise agreed to by each Issuing Bank, (i) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of Credit as between the commitments of such new “Class” and the remaining Revolving Commitments shall be made on a ratable basis as between the commitments of such new “Class” and the remaining Revolving Commitments and (ii) the Revolving Availability Period and the Revolving Maturity Date, as such terms are used in reference to Letters of Credit, may not be extended without the prior written consent of each Issuing Bank.

SECTION 2.22. Additional Reserve Costs. (a) If and for so long as any Lender is required to make special deposits with the Bank of England, to maintain reserve asset ratios or to pay fees, in each case in respect of such Lender’s Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on each of such Loans, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(b) If and for so long as any Lender is required to comply with reserve assets, liquidity, cash margin or other requirements of any monetary or other authority (including any such requirement imposed by the European Central Bank or the European System of Central Banks, but excluding requirements addressed by Section 2.22(a)) in respect of any of such Lender’s Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on each of such Lender’s Loans subject to such requirements, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(c) Any additional interest owed pursuant to paragraph (a) or (b) above shall be determined by the relevant Lender, acting in good faith, which determination shall be conclusive absent manifest error, and notified to the applicable Borrower, or the Borrower Agent on its behalf, (with a copy to the Administrative Agent) at least five Business Days before each date on which interest is payable for the relevant Loans, and such additional interest so notified to the applicable Borrower, or the Borrower Agent on its behalf, by such Lender shall be payable to such Lender on each date on which interest is payable for such Loans.

SECTION 2.23. Foreign Borrowers. (a) The Company may, upon not less than ten (10) Business Days' written notice (or such shorter period as may be agreed by the Administrative Agent) to the Administrative Agent and the Revolving Lenders, request that the Revolving Lenders approve the designation of any Subsidiary (an "Applicant Borrower") that is a wholly-owned Foreign Subsidiary of the Company as a Foreign Borrower hereunder by delivery to the Administrative Agent of a Foreign Borrower Joinder Agreement executed by such Subsidiary, the Company and the other Loan Parties under which such Subsidiary agrees to become a Foreign Borrower and each Loan Party reaffirms its guarantees, pledges, grants and other commitments and obligations under the Credit Agreement and the Security Documents to which such Loan Party is party. The approval of the designation of an Applicant Borrower as a Foreign Borrower may be granted or withheld in the sole discretion of any Revolving Lender. An Applicant Borrower shall become a Foreign Borrower upon receipt by the Administrative Agent of (i) the written approval of each Revolving Lender, and (ii) the Company's written approval of such amendments or other modifications to this Agreement and the other Loan Documents as may reasonably be specified by the Administrative Agent to effect the addition of such Applicant Borrower as a Foreign Borrower (collectively, the "Applicant Borrower Amendments"), it being understood, notwithstanding anything to the contrary in Section 9.02, that any Applicant Borrower Amendments shall be effective when executed and delivered by the Company and the Administrative Agent. The Administrative Agent shall send a notice to the Company and the Lenders specifying the effective date upon which the requested Applicant Borrower shall constitute a Foreign Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Foreign Borrower to receive Loans hereunder, on the terms and conditions set forth herein (as amended by the Applicant Borrower Amendments), and each of the parties hereto agrees that such Applicant Borrower shall for all purposes of this Agreement be a party to and a Foreign Borrower under this Agreement

(b) Notwithstanding the preceding paragraph (a), no Subsidiary shall become a Foreign Borrower if it shall be unlawful for such Subsidiary to become a Borrower hereunder or for any Lender to make Loans or otherwise extend credit to such Subsidiary as provided herein.

(c) The Company may from time to time, upon not less than five (5) Business Days' written notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its reasonable discretion), terminate a Foreign Borrower's status as such upon the execution by the Company and delivery to the Administrative Agent of a Foreign Borrower Termination with respect to such Foreign Borrower; provided that no Foreign Borrower Termination shall become effective as to any Foreign Borrower (other than to terminate its right to make further Borrowings or obtain Letters of Credit under this Agreement) until all Loans made to the terminated Foreign Borrower have been repaid, no Letter of Credit issued for the account of such terminated Foreign Borrower shall remain outstanding, and all amounts payable by such terminated Foreign Borrower in respect of LC Disbursements, interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable by the terminated Foreign Borrower under any Loan Document) have been paid in full. The Administrative Agent will promptly notify the Lenders of any such termination of a Foreign Borrower's status.

## ARTICLE III

## Representations and Warranties

Each Borrower represents and warrants to the Lenders on the date hereof, on the Effective Date and on each other date on which representations and warranties are made or deemed made hereunder that:

SECTION 3.01. Organization; Powers. The Company and each Subsidiary (a) is duly organized or incorporated, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, (b) has all power and authority and all material Governmental Approvals required for the ownership and operation of its properties and the conduct of its business as now conducted and as proposed to be conducted (except in the case of Non-Significant Subsidiaries, for failures to comply with the foregoing that, individually and in the aggregate, could not reasonably be expected to result in a Material Adverse Effect) and (c) except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business, and is in good standing (to the extent the concept is applicable in such jurisdiction), in every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability. The Transactions to be entered into by each Loan Party are within such Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, stockholder or other equityholder action of each Loan Party. This Agreement has been duly executed and delivered by each Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of each Borrower or such Loan Party, as the case may be, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; Absence of Conflicts. The Transactions (a) do not require any material consent or approval of, registration or filing with or any other action by any Governmental Authority, except (i) such as have been or substantially contemporaneously with the initial funding of Loans on the Effective Date will be obtained or made and are (or will so be) in full force and effect and (ii) filings necessary to perfect Liens created under the Loan Documents, (b) will not violate any applicable law, including any order of any Governmental Authority, (c) will not violate the charter, by-laws or other organizational documents of the Company or any Subsidiary that is not a Non-Significant Subsidiary, (d) will not violate or result (alone or with notice or lapse of time, or both) in a default under any indenture or other material agreement or material instrument binding upon any Borrower or any Subsidiary or any of their assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by any Borrower or any Subsidiary, or give rise to a right of, or result in, any termination, cancellation, acceleration or right of renegotiation of any obligation thereunder, in each case other than under agreements governing Indebtedness, including the Existing Credit Agreement, that will be repaid on the Effective Date and (e) except

for Liens created under the Loan Documents, will not result in the creation or imposition of any Lien on any asset of any Borrower or any Subsidiary.

SECTION 3.04. Financial Condition; No Material Adverse Change. (a) The Company has heretofore furnished to the Lenders (i) the consolidated balance sheet of the Company as at December 31, 2018, and related statements of operations, comprehensive income, changes in stockholders' equity and cash flows of the Company for the fiscal year ended at December 31, 2018, audited by and accompanied by the opinion of PricewaterhouseCoopers, LLP, independent registered public accounting firm and (ii) an unaudited consolidated balance sheet of the Company as at the end of, and related statements of income and cash flows of the Borrower for, the fiscal quarter and the portion of the fiscal year ended June 30, 2019 (and comparable period for the prior fiscal year), certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries as of such date and for such period in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes in the case of the statements referred to in clause (ii) above.

(b) Since December 31, 2018, there has been no event or condition that has resulted, or could reasonably be expected to result, in a material adverse change in the business, assets, operations, performance or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole.

SECTION 3.05. Properties. (a) The Company and each Subsidiary has good title to, or valid leasehold interests in, all its property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) No patents, trademarks, copyrights, licenses, technology, software, domain names, or other Intellectual Property used by the Company or any Subsidiary in the operation of its business infringes upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except for Disclosed Matters, no claim or litigation regarding any patents, trademarks, copyrights, licenses, technology or other Intellectual Property owned or used by the Company or any Subsidiary is pending against, or, to the knowledge of the Company or any Subsidiary, threatened in writing against, the Company or any Subsidiary that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. As of the Effective Date, each patent, trademark, copyright, license, technology, software, domain name, or other Intellectual Property that, individually or in the aggregate, is material to the business as currently conducted of the Company and the Subsidiaries is owned or licensed, as the case may be, by the Company, a Designated Subsidiary or a Foreign Subsidiary.

SECTION 3.06. Litigation and Environmental Matters. (a) Except for the Disclosed Matters, there are no actions, suits, proceedings, claims or counterclaims by or before any arbitrator or Governmental Authority pending against the Company or any Subsidiary or, to the knowledge of the Company or any Subsidiary based on written notice received by it, threatened against or affecting the Company or any Subsidiary that (i) could reasonably be

expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) involve any of the Loan Documents or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, none of the Company or any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability (provided that with respect to this clause (iv), such knowledge shall be deemed to extend solely to the extent of the knowledge of the Company's law department and environmental engineers).

SECTION 3.07. Compliance with Laws and Agreements. The Company and each Subsidiary is in compliance with all laws, including all orders of Governmental Authorities, applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to comply with any such laws, orders, indentures, agreements or other instruments, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. None of the Company or any Subsidiary is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. The Company and each Subsidiary has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except where (a)(i) the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) the Company or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP with respect thereto or (b) the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. Employee Benefit Plans; Labor Matters. (a) The Company, each of its ERISA Affiliates, and each Subsidiary is in compliance with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder, except as could not reasonably be expected to result in a Material Adverse Effect. No ERISA Events have occurred or are reasonably expected to occur that could, in the aggregate, reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of such Plan, and the present value of all benefit liabilities of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation dates applicable thereto, exceed the fair market value of the assets of all such underfunded Plans except in each such case where such underfunding could not reasonably be expected to have a Material Adverse Effect.

(b) Each Foreign Pension Plan (if any) is in compliance with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except as could not reasonably be expected to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), neither the Company nor any Subsidiary or any of their respective directors, officers, employees or agents has engaged in a transaction which would subject the Company or any Subsidiary, directly or indirectly, to a tax or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), reserves have been established in the financial statements in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Foreign Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Foreign Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Foreign Pension Plans (based on those assumptions used to fund each such Foreign Pension Plan) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of all such Foreign Pension Plans except in such case where the underfunding could not reasonably be expected to have a Material Adverse Effect.

(c) As of the Effective Date, there are no material strikes or lockouts against or affecting the Company or any Subsidiary pending or, to their knowledge, threatened. The hours worked by and payments made to employees of the Company and the Subsidiaries are not in violation in any material respect or in respect of any material amount under the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law relating to such matters. All material payments due from the Company or any Subsidiary, or for which any claim may be made against the Company or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as liabilities on the books of the Company or such Subsidiary.

**SECTION 3.11. Subsidiaries and Joint Ventures; Disqualified Equity Interests.** (a) Schedule 3.11A sets forth, as of the Effective Date, the name and jurisdiction of organization of, and the percentage of each class of Equity Interests owned by the Company or any Subsidiary in, (a) each Subsidiary and (b) each joint venture in which the Company or any Subsidiary owns any Equity Interests, and identifies each Designated Subsidiary, each Material Subsidiary and each Excluded Subsidiary. The Equity Interests in each Subsidiary have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth on Schedule 3.11A, as of the Effective Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Loan Party or any Subsidiary any Equity Interests of which are required to be pledged as Collateral under the Security Documents is a party requiring, and there are no Equity Interests in any such Loan Party or Subsidiary that upon exercise, conversion or exchange would require, the issuance by such Loan Party or Subsidiary of any additional Equity Interests or other securities exercisable for, convertible into, exchangeable for or evidencing the right to subscribe for or purchase any Equity Interests in such Loan Party or Subsidiary.

(b) Schedule 3.11B sets forth, as of the Effective Date, all outstanding Disqualified Equity Interests, if any, in the Company or any Subsidiary, including the number, date of issuance and the record holder of such Disqualified Equity Interests.



SECTION 3.12. Solvency. Immediately after the consummation of the Transactions to occur on the Effective Date, and giving effect to the rights of subrogation and contribution under the Collateral Agreement, (a) the fair value of the assets of the Company and the Subsidiaries, taken as a whole, will exceed their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the assets of the Company and the Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Company and the Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured and (d) the Company and the Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged, as such business is conducted at the time of and is proposed to be conducted following the Effective Date.

SECTION 3.13. Disclosure. None of the reports, financial statements, certificates or other information furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent, any Arranger or any Lender in connection with the negotiation of this Agreement or any other Loan Document, included herein or therein or furnished hereunder or thereunder (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that (a) with respect to forecasts or projected financial information, the Company represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time made and at the time so furnished and, if furnished prior to the Effective Date, as of the Effective Date (it being understood that such forecasts and projections may vary from actual results and that such variances may be material) and (b) no representation is made with respect to general economic or industry data.

SECTION 3.14. Collateral Matters. (a) The Collateral Agreement, upon execution and delivery thereof by the parties thereto, created or continued in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral (as defined therein) and (i) when the Collateral (as defined therein) constituting certificated securities (as defined in the Uniform Commercial Code) was or is delivered to the Administrative Agent, together with instruments of transfer duly endorsed in blank, the security interest created under the Collateral Agreement will constitute (or, in the case of such Collateral as was delivered prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has maintained possession of such certificated securities) a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Collateral, prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02), and (ii) when financing statements in appropriate form are filed in the applicable filing offices, the security interest created under the Collateral Agreement will constitute (or, in the case of such financing statements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such financing statements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the remaining Collateral (as defined

therein) to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

(b) Upon the recordation of the IP Security Agreements with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, and the filing of the financing statements referred to in paragraph (a) of this Section, the security interest created under the Collateral Agreement will constitute (or, in the case of such IP Security Agreements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such IP Security Agreements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Intellectual Property included in the Collateral in which a security interest may be perfected by filing in the United States of America, in each case prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02) (it being understood that subsequent recordings in the United States Patent and Trademark Office or the United States Copyright Office may be necessary to perfect a security interest in Intellectual Property acquired by the Guarantor Loan Parties after the Effective Date).

(c) Each Security Document, other than any Security Document referred to in the preceding paragraphs of this Section, including each Foreign Pledge Agreement, upon execution and delivery thereof by the parties thereto and the making of the filings and taking of the other actions provided for therein, will (or, in the case of such Security Documents delivered prior to the Effective Date, will, subject to the delivery of any required Reaffirmation Documents, continue to, assuming the Administrative Agent has maintained possession of any physical Collateral covered thereby and taken all required actions to maintain in effect such filings) be effective under applicable law to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral subject thereto, and will constitute, or will continue to constitute, a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Collateral subject thereto, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

SECTION 3.15. Federal Reserve Regulations. None of the Company or any Subsidiary is engaged principally, or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, for any purpose that entails a violation (including on the part of any Lender) of any of the regulations of the Board of Governors, including Regulations U and X. Not more than 25% of the value of the assets of the Company and the Subsidiaries subject to any restrictions on the sale, pledge or other disposition of assets under this Agreement or any other Loan Document are or will at any time be represented by margin stock.

SECTION 3.16. Anti-Corruption Laws and Sanctions.

(a) Subject to paragraph (b) below, the Company and each Foreign Borrower has implemented and maintain in effect policies and procedures reasonably designed to promote

compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and their respective officers and employees with Anti-Corruption Laws and applicable Sanctions, and the Company, each Foreign Borrower, their Subsidiaries and their respective officers and, to the knowledge of the Borrowers, their employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Borrower being designated as a Sanctioned Person. None of (a) the Company, the Foreign Borrowers, any Subsidiary or, to the knowledge of the Company, any Foreign Borrower or such Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of the Company or any Foreign Borrower, any agent of the Company or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. The Transactions will not violate any Anti-Corruption Law or applicable Sanctions.

(b) The representation in paragraph (a) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such representation does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

SECTION 3.17. Insurance. Schedule 3.17 sets forth a description of all insurance maintained by or on behalf of the Company and the other Guarantor Loan Parties as of the Effective Date.

SECTION 3.18. EEA Financial Institutions. Neither the Company nor any Borrower is an EEA Financial Institution.

## ARTICLE IV

### Conditions

SECTION 4.01. Effective Date. The amendment and restatement of the Existing Credit Agreement in the form of this Agreement and the obligations of the Lenders hereunder to make Loans and other extensions of credit pursuant hereto shall not become effective until the date on which each of the following conditions shall have been satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or other electronic transmission of a signed counterpart of this Agreement) that such party has signed a counterpart of this Agreement;

(b) The principal of and accrued and unpaid interest on all outstanding loans and letter of credit disbursements under the Existing Credit Agreement, and all accrued and unpaid fees and cost reimbursements payable under the Existing Credit Agreement (including all amounts owed in respect of such prepayments pursuant to Section 2.15 of the Existing Credit

Agreement), shall have been (or, substantially simultaneously with the effectiveness of this Agreement and the making of Loans hereunder on the Effective Date, shall be) paid in full, and the Administrative Agent shall have received evidence reasonably satisfactory to it of such payment;

(c) The conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied on and as of the Effective Date, and the Administrative Agent shall have received a certificate of a Financial Officer dated the Effective Date to such effect;

(d) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent, the Lenders and the Issuing Banks and dated the Effective Date) of each of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, (ii) John Bedore, internal counsel for the Company, (iii) counsel for each Foreign Borrower in the jurisdiction in which such Foreign Borrower is organized and (iv) local counsel for the Company in each jurisdiction in which any Subsidiary Loan Party is organized, and the laws of which are not covered by the opinion letter referred to in clause (i) above, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(e) The Administrative Agent shall have received such documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing (to the extent applicable) of each Loan Party, the authorization of the transactions contemplated herein and any other legal matters relating to the Loan Parties, the Loan Documents or the transactions contemplated herein, all in form and substance reasonably satisfactory to the Administrative Agent;

(f) All fees, cost reimbursements and out-of-pocket expenses required to be paid or reimbursed on the Effective Date pursuant hereto or pursuant to the Engagement Letter and the Fee Letters, to the extent invoiced prior to the Effective Date, shall have been paid or will be paid substantially simultaneously with the initial borrowing of the Term Loans (which amounts may be offset against the proceeds of the Term Loans made on the Effective Date to the extent set forth in a flow of funds statement authorized by the Company);

(g) The Administrative Agent shall have received a Reaffirmation Agreement satisfactory in form and substance to it, executed by the Company and each Designated Subsidiary that is a Domestic Subsidiary, acknowledging that the Collateral and Guarantee Requirement will continue to be satisfied and the Administrative Agent shall have received a completed Perfection Certificate dated the Effective Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered prior to the Effective Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will substantially contemporaneously with the initial funding of Loans on the Effective Date be released; provided that the Company need not have satisfied the Collateral and Guarantee Requirement with respect to Foreign Pledge

Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements to the extent that the Administrative Agent has, consistent with the definition of “Collateral and Guarantee Requirement”, granted extensions of time for execution and delivery of such agreements (including any such extensions granted under the Existing Credit Agreement or pursuant to Section 5.14);

(h) The Administrative Agent shall have received a certificate, substantially in the form of Exhibit H, from a Financial Officer of the Company confirming the solvency of the Company and its Subsidiaries on a consolidated basis on the Effective Date after giving effect to the Transactions contemplated to occur on the Effective Date;

(i) The Administrative Agent shall have received evidence that the insurance required by Section 5.08 is in effect, together with endorsements naming the Administrative Agent, for the benefit of the Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 5.08; and

(j) The Administrative Agent shall have received all documentation and other information about the Borrowers and the Guarantors, including Beneficial Ownership Certifications, as have been reasonably requested by the Administrative Agent or any Lender in writing at least five days prior to the Effective Date and that they reasonably determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act and the Beneficial Ownership Regulation.

Notwithstanding the foregoing, if the Company shall have used commercially reasonable efforts to procure and deliver, but shall nevertheless be unable to deliver, any document that is required to be delivered in order to satisfy the requirements of the Collateral and Guarantee Requirement or Section 4.01(i), such delivery shall not be a condition precedent to the obligations of the Lenders and the Issuing Banks hereunder on the Effective Date, but shall be required to be accomplished as provided in Section 5.14.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (but not a conversion or continuation of an outstanding Borrowing), and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct, or true and correct in all material respects, on and as of such prior date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable (other than any such Borrowing or Letter of Credit issuance on the Effective Date), no Default shall have occurred and be continuing.

On the date of any Borrowing (but not a conversion or continuation of an outstanding Borrowing) or the issuance, amendment, renewal or extension of any Letter of Credit, the applicable Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (a) and (b) of this Section have been satisfied and that, after giving effect to such Borrowing, or such issuance, amendment, renewal or extension of a Letter of Credit, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment, (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment and (v) the Foreign Borrower Exposure will not exceed \$400,000,000.

SECTION 4.03. Initial Credit Event in Respect of Each Foreign Borrower. The obligations of the Lenders to make Loans to and of the Issuing Banks to issue Letters of Credit for the account of each Foreign Borrower not a party hereto on the date hereof shall be subject to the satisfaction of the following additional conditions precedent on the date of the initial Borrowing by or Letter of Credit issuance for such Foreign Borrower :

(a) The Administrative Agent shall have received such documents, legal opinions and certificates as the Administrative Agent or its counsel may reasonably request relating to the formation, existence and good standing (to the extent the concept is applicable in such jurisdiction) of such Foreign Borrower, the authorization of the Transactions insofar as they relate to such Foreign Borrower and any other legal matters relating to such Foreign Borrower, its Foreign Borrower Joinder Agreement or such Transactions, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(b) The Lenders shall have received all documentation and other information with respect to such Foreign Borrower required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

## ARTICLE V

### Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by

Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Company will furnish to the Administrative Agent, on behalf of each Lender:

(a) within 90 days after the end of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Annual Report on Form 10-K of the Company for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and related statements of income, stockholders' equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the prior fiscal year, all audited by and accompanied by the opinion of Pricewaterhouse Coopers L.L.P. or another independent registered public accounting firm of recognized national standing (without a "going concern" or like qualification or exception (except as a result of a maturity date in respect of any Term Loans or Revolving Commitments or Revolving Loans) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such year in accordance with GAAP;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Quarterly Report on Form 10-Q of the Company for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and related consolidated statements of income and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the prior fiscal year, all certified by a Financial Officer of the Company as presenting fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such fiscal quarter and such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes;

(c) not later than the fifth Business Day following the date of delivery of financial statements under clause (a) or (b) above, a completed Compliance Certificate signed by a Financial Officer of the Company, (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.12 and computing the Leverage Ratio and the Secured Leverage Ratio as of the last day of the fiscal period covered by such financial

statements, (iii) (x) stating whether any change in GAAP or in the application thereof has occurred since the date of the consolidated balance sheet of the Company most recently theretofore delivered under clause (a) or (b) above (or, prior to the first such delivery, referred to in Section 3.04) and, if any such change has occurred, specifying the effect of such change on the financial statements (including those for the prior periods) accompanying such certificate and (y) if any change in GAAP or in the application thereof has occurred with respect to the treatment of Capital Lease Obligations or other lease obligations, attaching a reconciliation in form and substance reasonably satisfactory to the Administrative Agent, setting forth the differences in such treatment from the treatment effected by the Company pursuant to Section 1.04(b), (iv) certifying that all notices required to be provided under Sections 5.03 and 5.04 have been provided or identifying and providing any such notices not previously provided, (v) in the case of any delivery of financial statements under clause (a) above, unless the Investment Grade Date has occurred, setting forth a reasonably detailed calculation of Adjusted Consolidated Net Income for the applicable fiscal year, (vi) in the case of any delivery of financial statements under clause (a) above, setting forth reasonably detailed calculations as of the last day of the most recent fiscal quarter covered by such financial statements with respect to which Subsidiaries are Material Subsidiaries based on the information contained in such financial statements and identifying each Subsidiary, if any, that has automatically been designated a Material Subsidiary in order to satisfy the condition set forth in the definition of the term “Material Subsidiary” and of the calculation of Excess Cash Flow for such fiscal year (beginning with the fiscal year ending December 31, 2020), and (vii) identifying, as of the last day of the most recent fiscal quarter covered by such financial statements, each Subsidiary that (A) is an Excluded Subsidiary as of such date but has not been identified as an Excluded Subsidiary in Schedule 3.11A or in any prior Compliance Certificate or (B) has previously been identified as an Excluded Subsidiary but has ceased to be an Excluded Subsidiary;

(d) not later than five days after any delivery of financial statements under paragraph (a) above, a certificate of the accounting firm that reported on such financial statements stating whether it obtained knowledge during the course of its examination of such financial statements of any Default relating to compliance with Section 6.12 as of, or for the Test Period ending, on the last day of any fiscal quarter during the fiscal year covered by such financial statements and, if such knowledge has been obtained, describing such Default (which certificate may be limited to the extent required or recommended by accounting rules or guidelines and may assume the accuracy of any Pro Forma Adjustments made by the Company to Consolidated EBITDA for the Test Periods involved);

(e) promptly after the same has been submitted to and reviewed by the board of directors of the Company in each fiscal year, a consolidated budget for such fiscal year in substantially the same form and detail as the 2019 budget furnished to the Administrative Agent prior to the Effective Date, setting forth the assumptions used for purposes of preparing such budget, and, promptly after the same have been submitted to and reviewed by the board of directors of the Company, any material revisions to such budget;



(f) promptly after any request therefor by the Administrative Agent or any Lender, copies of (i) any documents described in Section 101(k)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan and (ii) any notices described in Section 101(l)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan; provided that if the Company or any of its ERISA Affiliates has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Company or the applicable ERISA Affiliate shall upon the reasonable request of the Administrative Agent promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof;

(g) promptly after any request therefor, such other non-privileged information regarding compliance with the USA PATRIOT Act and the Beneficial Ownership Regulation, as the Administrative Agent or any Lender may reasonably request; and

(h) promptly after any request therefor, such other non-privileged information regarding the operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition of the Company or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request; provided that the Company will not be required to provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

Information required to be delivered pursuant to clause (a) or (b) of this Section shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall have been posted by the Administrative Agent on an IntraLinks or similar site to which the Lenders have been granted access or shall be available on the website of the SEC at <http://www.sec.gov>. Information required to be delivered pursuant to this Section may also be delivered by electronic communications pursuant to procedures approved by the Administrative Agent.

SECTION 5.02. Notices of Material Events. The Company will furnish to the Administrative Agent prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Company or any

Subsidiary, or any adverse development in any such pending action, suit or proceeding not previously disclosed in writing by the Company to the Administrative Agent and the Lenders, that in each case could reasonably be expected to result in a Material Adverse Effect or that in any manner questions the validity of any Loan Document;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

(d) any other development that has resulted, or could reasonably be expected to result, in a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Company setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto; provided that the Company will not be required to provide any information pursuant to this Section 5.02 (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

SECTION 5.03. Additional Subsidiaries. (a) If any Material Subsidiary is formed or acquired after the Effective Date, the Company will, as promptly as practicable, and in any event within 30 days (or such longer period as the Administrative Agent may agree to in writing), notify the Administrative Agent thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Material Subsidiary (if it is a Designated Subsidiary) and with respect to any Equity Interests of such Subsidiary owned by any Guarantor Loan Party (including, in the case of any Equity Interests of a Foreign Subsidiary held by a Guarantor Loan Party, if requested by the Administrative Agent, the execution and delivery of a Foreign Pledge Agreement with respect to such Equity Interests (subject to the limitations referred to in the definition of "Collateral and Guarantee Requirement" and, if applicable, the taking of other necessary actions to perfect the security interest of the Administrative Agent in such Equity Interests).

(b) The Company may designate any Domestic Subsidiary that is not otherwise a Designated Subsidiary as a Designated Subsidiary; provided that (i) such Subsidiary shall have delivered to the Administrative Agent a supplement to the Collateral Agreement, in the form specified therein, duly executed by such Subsidiary, (ii) the Company shall have delivered a certificate of a Financial Officer or other executive officer of the Company to the effect that, after giving effect to any such designation and such Subsidiary becoming a Subsidiary Loan Party hereunder, the representations and warranties set forth in this Agreement and the other Loan Documents as to such Subsidiary shall be true and correct in all material respects and no

Default shall have occurred and be continuing and (iii) such Subsidiary shall have delivered to the Administrative Agent documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01, in each case, if reasonably requested by the Administrative Agent.

SECTION 5.04. Information Regarding Collateral. (a) The Company will, at all times during each Non-Investment Grade Period prior to the Release Date, furnish to the Administrative Agent prompt written notice of any change in (i) the legal name of any Guarantor Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Guarantor Loan Party (including as a result of any merger or consolidation), (iii) the location of the chief executive office of any Guarantor Loan Party or (iv) the organizational identification number, if any, or, with respect to any Guarantor Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a Uniform Commercial Code financing statement, the Federal Taxpayer Identification Number of such Guarantor Loan Party. The Company agrees not to effect or permit any change referred to in the preceding sentence during any Non-Investment Grade Period prior to the Release Date unless all filings have been made (or the Administrative Agent shall have been advised of the Company's intent to make such change and shall have received all the information necessary to, and shall have been authorized to, make all filings) under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral owned by such Guarantor Loan Party.

(b) Each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to Section 5.01(a), the Company shall deliver to the Administrative Agent a certificate executed by an officer of the Company setting forth the information required pursuant to the Perfection Certificate or confirming that there has been no change in such information since the date of such certificate or the date of the most recent certificate delivered pursuant to this Section 5.04(b)

SECTION 5.05. Existence; Conduct of Business. (a) The Company and each Subsidiary will do or cause to be done all things reasonably necessary to preserve, renew and keep in full force and effect its legal existence and exercise commercially reasonable efforts to preserve, renew and keep in full force and effect those licenses, permits, privileges, and franchises (other than Intellectual Property) that are material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation, amalgamation, dissolution or similar transaction permitted under Section 6.03 or any Disposition permitted by Section 6.05. The Company and the Subsidiaries will exercise commercially reasonable efforts in accordance with industry standard practices to preserve, renew and keep in full force and effect their Intellectual Property licenses and rights, and their patents, copyrights, trademarks and trade names, in each case material to the conduct of their business, except where the failure to take such actions, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any Disposition permitted by Section 6.05.

(b) The Company and each Subsidiary will take all actions reasonably necessary in accordance with industry standard practices to protect all patents, trademarks, copyrights, technology, software, domain names and other Intellectual Property material to the conduct of its business, including (i) protecting the secrecy and confidentiality of the confidential information and trade secrets of the Company or such Subsidiary by having and following a policy requiring employees, consultants, licensees, vendors and contractors to execute confidentiality agreements when it is likely that confidential information will be shared with them, (ii) taking all actions reasonably necessary in accordance with industry standard practices to ensure that trade secrets of the Company or such Subsidiary do not fall into the public domain and (iii) protecting the secrecy and confidentiality of the source code of computer software programs and applications owned or licensed out by the Company or such Subsidiary by having and following a policy requiring licensees of such source code (including licensees under any source code escrow agreement) to enter into agreements with use and nondisclosure restrictions, except with respect to any of the foregoing where the failure to take any such action, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06. Payment of Obligations. The Company and each Subsidiary will pay its obligations (other than obligations with respect to Indebtedness), including Tax liabilities, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Company or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 5.07. Maintenance of Properties. The Company and each Subsidiary will keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 5.08. Insurance. The Company and each Subsidiary will maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations. Each such policy of liability or casualty insurance maintained by or on behalf of the Guarantor Loan Parties shall (a) in the case of each liability insurance policy (other than workers' compensation, director and officer liability or other policies in which such endorsements are not customary), name the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder, (b) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties, as the loss payee thereunder and (c) to the extent available on commercially reasonable terms, provide for at least 30 days' (or 10 days' if such cancellation results from non-payment) (or such shorter number of days as may be agreed to by the Administrative Agent, in its discretion) prior written notice to the Administrative Agent of any cancellation of such policy.

SECTION 5.09. Books and Records; Inspection and Audit Rights. The Company and each Subsidiary will keep proper books of record and account in which full, true and correct entries in accordance with GAAP and applicable law are made of all dealings and transactions in relation to its business and activities. The Company and each Subsidiary will permit the Administrative Agent or any Lender, and any agent designated by any of the foregoing, upon reasonable prior notice and, subject to applicable legal privileges, (a) to visit and inspect its properties, (b) to examine and make extracts from its books and records and (c) to discuss its operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested provided that (i) unless an Event of Default shall have occurred and be continuing, no such discussion with any such independent accountants shall be permitted unless the Company shall have received reasonable notice thereof and a reasonable opportunity to participate therein and no Lender shall exercise such rights more often than two times during any calendar year and (ii) the reasonable costs and expenses of Lenders in connection with such visits and examinations shall be borne by the Company only after the occurrence and during the continuance of an Event of Default. Notwithstanding the foregoing, neither the Company nor its Subsidiaries will be required to reveal to the Administrative Agent or any Lender any information (a) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (b) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (c) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided that if any information is withheld pursuant to this sentence, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

SECTION 5.10. Compliance with Laws.

(a) The Company and each Subsidiary will comply with all Requirements of Law, including Environmental Laws, ERISA and the laws applicable to each Foreign Pension Plan, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) The Company and each Foreign Borrower will maintain in effect and enforce policies and procedures reasonably designed to promote compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and the respective directors, officers and employees of the foregoing with Anti-Corruption Laws and applicable Sanctions.

(c) The covenant in paragraph (b) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such covenant does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

SECTION 5.11. Use of Proceeds and Letters of Credit. (a) The proceeds of the Initial Term Loans will be used to repay amounts owing under the Existing Credit Agreement on the Effective Date, to pay Transaction Costs and otherwise for working capital and general

corporate purposes. The proceeds of the Delayed Draw Term Loans will be used (i) solely to refinance all of the Existing 5.875% Notes and to pay fees and expenses in connection therewith and (ii) to the extent of any remaining proceeds, solely to refinance all or any portion of the Existing 6.375% Notes and to pay fees and expenses in connection therewith; provided that the Company may temporarily use the proceeds of the Delayed Draw Term Loans to repay Revolving Loans, so long as on or prior to December 31, 2019 such proceeds are ultimately reapplied as set forth above. The proceeds of the Revolving Loans will be used on and after the Effective Date for working capital and other general corporate purposes of the Company, the Foreign Borrowers and the other Subsidiaries. Letters of Credit will be used by the Company, the Foreign Borrowers and the other Subsidiaries for general corporate purposes.

(b) No Borrower will request any Borrowing or Letter of Credit, and no Borrower shall use, and each Borrower shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or any Letter of Credit (i) 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, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country to the extent such activities, businesses or transaction would be permissible for a Person required to comply with Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.12. Further Assurances. Each Borrower and each other Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied at all times or otherwise to effectuate the provisions of the Loan Documents, all at the expense of the Loan Parties. The Company will provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

SECTION 5.13. Maintenance of Ratings. The Company will use commercially reasonable efforts to maintain continuously in effect a rating of the credit facilities hereunder by S&P and Moody's.

SECTION 5.14. Certain Post-Closing Collateral Obligations. As promptly as practicable, and in any event within the time period after the Effective Date set forth therefor in Schedule 5.14 (or such later date as the Administrative Agent may agree), the Company and each other Guarantor Loan Party will satisfy the requirements set forth on Schedule 5.14, including, but not limited to, the delivery of all Foreign Pledge Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements that would have been required to be delivered on the Effective Date but for the exception contained in Section 4.01(g), and take or cause to be taken such other actions as may be necessary to comply with the Collateral and Guarantee

Requirement with respect to such Foreign Pledge Agreements and the Equity Interests subject thereto, in each case except (i) to the extent otherwise agreed by the Administrative Agent pursuant to its authority as set forth in the definition of the term “Collateral and Guarantee Requirement” or (ii) in the event a requirement of Schedule 5.14 is no longer applicable due to the permitted sale or transfer of the Equity Interests of a Subsidiary prior to the time period required to satisfy such requirement set forth in Schedule 5.14.

## ARTICLE VI

### Negative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness; Certain Equity Securities. (a) None of the Company or any Subsidiary will create, incur, assume or permit to exist any Indebtedness, except:

(i) Indebtedness created under the Loan Documents;

(ii) (x) Indebtedness existing on the Effective Date and (except in the case of Guarantees in an amount less than \$10,000,000) set forth on Schedule 6.01, (y) Refinancing Indebtedness in respect of debt owed to non-Affiliates reflected on such schedule and (z) extensions and renewals of debt owed by the Company or any Subsidiary to the Company or any Subsidiary reflected on such schedule;

(iii) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary; provided that (A) such Indebtedness shall not have been transferred to any Person other than the Company or any Subsidiary and (B) any such Indebtedness owing by any Loan Party shall be unsecured and, during any Pledge Effectiveness Period, subordinated in right of payment to the Loan Document Obligations in accordance with the provisions of Exhibit D hereto;

(iv) (x) Guarantees incurred in compliance with clause (a)(xiv) or (xv) below, (y) Guarantees by Guarantor Loan Parties of Indebtedness of other Guarantor Loan Parties, Guarantees by Foreign Borrowers of Indebtedness of other Foreign Borrowers and Guarantees by Subsidiaries that are not Loan Parties of Indebtedness of other Subsidiaries that are not Loan Parties, in each case, in respect of Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 (other than clauses (ii), (vi) and (xi)); provided, that if the Indebtedness that is being Guaranteed is unsecured and/or subordinated to the Loan Document Obligations, the Guarantee shall also be unsecured and/or subordinated to the Loan Document Obligations on terms not less favorable in any material respect to

the Lenders and (z) Guarantees by Guarantor Loan Parties of Indebtedness of Subsidiaries that are not Guarantor Loan Parties, other than in respect of Permitted Cash Pooling Arrangements, in an aggregate principal amount not at any time in excess of the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(v) Indebtedness of the Company or any Subsidiary (x)(A) incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and Synthetic Lease Obligations; provided that such Indebtedness is incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement and the principal amount of such Indebtedness does not exceed the cost of acquiring, constructing or improving such fixed or capital assets or (B) assumed in connection with the acquisition of any fixed or capital assets, and Refinancing Indebtedness in respect of any of the foregoing; provided that the aggregate principal amount of Indebtedness permitted by this clause (a)(v)(x) shall not at any time outstanding, exceed the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and (y) Indebtedness of the Company or any Subsidiary consisting of Capital Lease Obligations or Synthetic Lease Obligations incurred in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions;

(vi) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary in a Permitted Acquisition; provided that (A) such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (B) neither the Company nor any Subsidiary (other than such Person or the Subsidiary with which such Person is merged or consolidated or the Person that so assumes such Person's Indebtedness) shall Guarantee or otherwise become liable for the payment of such Indebtedness, and Refinancing Indebtedness in respect of any of the foregoing; provided that after giving effect to such Indebtedness permitted by this clause (vi), the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12;

(vii) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not in excess of the greater of (x) \$400,000,000 and (y) 5.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;



(viii) (A)(x) Indebtedness of the Company or other Domestic Subsidiaries in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services; provided that such Indebtedness shall be repaid in full within 45 days of the incurrence thereof and (y) Indebtedness of Foreign Subsidiaries in respect of Permitted Cash Pooling Arrangements; provided that such Indebtedness (1) shall not exceed the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof in the aggregate at any time outstanding and (2) shall be reduced to zero not less frequently than every 90 days, (B) Indebtedness owed by the Company or any Subsidiary to the Company or any Subsidiary pursuant to intercompany cash pooling arrangements in the ordinary course of business and consistent with past practices and (C) Indebtedness in connection with automated clearing-house transfers of funds;

(ix) (x) Indebtedness in respect of letters of credit, surety and performance bonds, bank guarantees, appeal bonds and similar instruments issued for the account of the Company or any Subsidiary supporting obligations of the Company or any Subsidiary under (A) workers' compensation and other social security and/or insurance laws in the ordinary course of business, (B) bids, trade contracts, leases, statutory obligations, customs/duties, taxes and obligations of a like nature in the ordinary course of business and (C) judgments pending appeal that do not constitute an Event of Default and (y) Indebtedness of the type referred to in clause (f) of the definition thereof securing judgments, decrees, attachments or awards that do not constitute an Event of Default under clause (1) of Article VII;

(x) Indebtedness of the Company or any Subsidiary in the form of purchase price adjustments, earn-outs or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with any Permitted Acquisition or any other Investment;

(xi) Indebtedness in respect of any Permitted Receivables Facility (including in respect of any Standard Receivables Undertakings incurred in connection therewith);

(xii) Permitted Additional Indebtedness; provided that, after giving effect to the incurrence thereof, the Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more than the then applicable ratio under Section 6.12 for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Section 5.01(a) or Section 5.01(b) (after giving effect, however, to any adjustments to such applicable ratio based on the Cumulative Leverage Ratio Increase Amount reflecting any such Indebtedness that constitutes Pension Funding Indebtedness); provided, further, however, that notwithstanding anything to the contrary set forth in the definition of Permitted Additional Indebtedness, any Indebtedness incurred pursuant to this clause (xii) may be secured by the Collateral to the extent permitted by Section 6.02(a)(xvii);

(xiii) other Indebtedness in an aggregate principal amount not exceeding at any time outstanding the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof; provided that the aggregate principal amount of Indebtedness of the Subsidiaries that are not Guarantor Loan Parties permitted by this clause (xiii) shall not exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xiv) Guarantees or joint and several liability arising under a Dutch fiscal unity (*fiscale eenheid*) for Dutch corporate tax or VAT purposes solely existing of Loan Parties;

(xv) Indebtedness arising under a declaration of joint and several liability used for the purpose of Article 2:403 of the Dutch Civil Code (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code); and

(xvi) any Defeased Debt.

For purposes of determining compliance with this Section 6.01(a), (i) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness described in this Section 6.01(a) but may be permitted in part under any combination thereof and (ii) in the event that Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness described in this Section 6.01(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Indebtedness (or portion thereof) in one of the clauses of this Section 6.01(a), and such Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b) The Company will not permit any Subsidiary to issue any preferred Equity Interests except for preferred Equity Interests issued to and held by the Company or any other Subsidiary (and, in the case of any preferred Equity Interests issued by any Foreign Borrower or Subsidiary Loan Party, such preferred Equity Interests shall be held by the Company, a Borrower or a Subsidiary Loan Party).

SECTION 6.02. Liens. (a) None of the Company or any Subsidiary will create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable and royalties) or rights in respect of any thereof, except:

(i) Liens created under the Loan Documents;

(ii) Permitted Encumbrances;

(iii) any Lien on any asset of the Company or any Subsidiary existing on the Effective Date and set forth on Schedule 6.02; provided that (A) such Lien shall not apply to any other asset of the Company or any Subsidiary and (B) such Lien shall secure only those obligations that it secures on the date hereof and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(iv) any Lien existing on any asset prior to the acquisition thereof by the Company or any Subsidiary or existing on any asset of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (A) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or such merger or consolidation), (B) such Lien shall not apply to any other asset of the Company or any Subsidiary (other than, in the case of any such merger or consolidation, the assets of any Subsidiary that is a party thereto) and (C) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated), and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(v) (A) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary; provided that (x) such Liens secure only Indebtedness permitted by Section 6.01(a)(v) and (y) such Liens shall not apply to any other asset of the Company or any Subsidiary (other than the proceeds and products thereof); provided, further, that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of any fixed or capital assets, such Liens may secure all such purchase money obligations and may apply to all such fixed or capital assets financed by such Person and (B) Liens on assets arising in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions to the extent permitted under Section 6.01(a)(v)(y);

(vi) in connection with the sale or transfer of any Equity Interests or other assets in a transaction permitted under Section 6.05, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(vii) in the case of (A) any Subsidiary that is not a wholly-owned Subsidiary or (B) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the organizational documents of such Subsidiary or such other Person or any related joint venture, shareholders' or similar agreement, including any such Liens arising under the Brazil Transaction Documents;

(viii) Liens solely on any cash earnest money deposits, escrow arrangements or similar arrangements made by the Company or any Subsidiary in connection with any letter of intent or purchase agreement for a Permitted Acquisition or other transaction permitted hereunder;

(ix) any interest or title of a lessor under leases (other than leases constituting Capital Lease Obligations) entered into by the Company or any of the Subsidiaries in the ordinary course of business;

(x) Liens deemed to exist in connection with Investments in repurchase agreements that are Permitted Investments;

(xi) Liens on property of any Subsidiary that is not a Loan Party, which Liens secure Indebtedness of such Subsidiary permitted under Section 6.01;

(xii) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods by any of the Subsidiaries in the ordinary course of business;

(xiii) Liens in favor of any Receivables Subsidiary, or any collateral agent (or other party acting in a similar capacity) for holders of Third Party Interests or any third-party buyer or purchaser of Receivables, in each case, in connection with a Permitted Receivables Financing;

(xiv) leases, licenses, subleases or sublicenses, including non-exclusive software licenses, granted to others that do not (A) interfere in any material respect with the business of the Company and the Subsidiaries, taken as a whole, or (B) secure any Indebtedness;

(xv) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xvi) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xvii) Liens on the Collateral securing Permitted Additional Indebtedness in the form of term loans or notes; provided that, (x) after giving effect to the incurrence of such Indebtedness, the Secured Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more 3.00 to 1.00, (y) any such Liens shall rank pari passu or junior to the Liens securing the Obligations and shall be subject to intercreditor arrangements reasonably acceptable to the Administrative Agent and (z) to the extent the Liens securing any term loans rank pari passu to the Liens securing the Obligations, the

applicable Indebtedness shall be subject to clause (v) of the second proviso in Section 2.20(b) as if such Indebtedness was incurred in the form of Incremental Term Loans;

(xviii) to the extent constituting Liens on the assets of the Company or any of its Subsidiaries, Liens incurred in connection with any Defeased Debt;

(xix) to the extent required by the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations thereunder, cash margin deposits securing obligations under Hedging Agreements permitted under Section 6.07, in an aggregate amount not to exceed the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xx) Liens on (i) deposit accounts of the Company and Domestic Subsidiaries, and related set-off rights of cash management banks securing Indebtedness permitted by Section 6.01(viii)(A)(x) and (ii) deposit accounts of Foreign Subsidiaries and related set-off rights of cash management banks servicing Permitted Cash Pooling Arrangements, including in each case, fees and other obligations to cash management banks with respect to the provision of cash management services (but not other obligations); and

(xxi) Liens incurred to secure any Notes issued in connection with a Permitted Material Acquisition pursuant to the Permitted Escrow Transactions with respect to such Notes; provided that such Liens are discharged and released on the earliest to occur of (i) the release of the Permitted Escrow Funds with respect to such Notes to pay a portion of the consideration for such Permitted Material Acquisition in connection with the consummation thereof, (ii) the release of the Permitted Escrow Funds with respect to such Notes to repay in full the principal of and accrued interest on such Notes in the event that the acquisition agreement relating to such Permitted Material Acquisition is terminated in accordance with its terms prior to the consummation of such Permitted Material Acquisition or such Permitted Material Acquisition is abandoned and (iii) the date of the termination of the escrow period provided in the escrow agreement applicable to such Notes.

For purposes of determining compliance with this Section 6.02(a), (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in this Section 6.02(a) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens described in this Section 6.02(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien (and portion of Indebtedness secured thereby) in one of the above clauses, and such Lien securing such item of Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b) Notwithstanding the foregoing, no Subsidiary that is a Designated Subsidiary as of the Effective Date shall create, incur, assume or permit to exist any Lien (other than any non-consensual Lien or any Lien of the type referred to in Section 6.02(a)(iv)) on any Equity Interests that are required by the Collateral and Guarantee Requirement to be pledged as Collateral (or, in the case of Equity Interests of any Foreign Subsidiary or CFC Holdco, Equity Interests that would be required to be pledged if such Subsidiary became a Material Subsidiary), except pursuant to the Security Documents.

(c) Notwithstanding the foregoing, neither the Company nor any Subsidiary shall grant to any third party any license or sublicense of Intellectual Property; provided that the foregoing will not restrict or prohibit (i) non-exclusive licenses and sublicenses of Intellectual Property entered into in the ordinary course of business in compliance with clause (a)(xiv) above; (ii) exclusive licenses and sublicenses of Intellectual Property in compliance with clause (a)(xiv) above that are on arms-length terms and are exclusive only in respect of fields of use that are not included in the business of the Company and its Subsidiaries in any material respect and (iii) Economic IP Transfers.

SECTION 6.03. Fundamental Changes; Business Activities. (a) None of the Company or any Subsidiary will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing, (i) any Person may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Person (other than the Company) may merge or consolidate with any Foreign Borrower in a transaction in which the surviving entity is a Foreign Borrower, (iii) any Person (other than a Borrower) may merge or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (and, if any party to such merger or consolidation is a Subsidiary Loan Party, is a Subsidiary Loan Party), (iv) any Subsidiary may merge into or consolidate with any Person (other than a Borrower) in a transaction permitted under Section 6.05 in which, after giving effect to such transaction, the surviving entity is not a Subsidiary, and (v) any Subsidiary (other than a Foreign Borrower, unless such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders; provided that the assets and operations of any Material Subsidiary that is liquidated or dissolved shall be transferred to the Company, a Subsidiary Loan Party, or the direct holder of the Equity Interests of such Material Subsidiary in connection therewith.

(b) None of the Company or any Subsidiary will engage to any material extent in any business other than businesses of the type conducted by the Company and the Subsidiaries on the date hereof and businesses reasonably related thereto.

(c) The Company will not permit any Person other than the Company, one or more of its subsidiaries that is not a CFC and minority investors in Excluded Subsidiaries, to own any Equity Interests in any Domestic Subsidiary (other than as a result of an acquisition of a CFC

that owns Equity Interests in a Domestic Subsidiary and such ownership structure is not established in contemplation of such acquisition). Notwithstanding the foregoing, a CFC may own the Equity Interests of a CFC Holdco.

(d) Notwithstanding any provision to the contrary herein, (i) the Company will not, and will not permit any Subsidiary to, sell, transfer or contribute any Equity Interests or operating assets of the Company or any Subsidiary to Lower Fox River Remediation LLC, (ii) so long as Lower Fox River Remediation LLC is a Subsidiary, neither the Company nor any Subsidiary shall create, incur, assume or permit to exist any Lien (other than any non-consensual Liens or any Lien of the type referred to in Section 6.02(iv) or (vii)) on the Equity Interests of Lower Fox River Remediation LLC, (iii) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC shall not create, incur, assume or permit to exist any Indebtedness for borrowed money, and (iv) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC will not engage to any material extent in any business other than environmental remediation and retaining the services of engineering, other advisory firms and other service providers in connection therewith.

SECTION 6.04. Acquisitions. The Company will not consummate, and will not permit any Subsidiary to consummate: (i) any Material Acquisition for consideration in excess of \$75,000,000 other than a Permitted Acquisition; and (ii) other Investments (excluding Investments in Subsidiaries by the Company or other Subsidiaries that do not involve third parties) if the amount of any such Investment is in excess of \$75,000,000 unless, after giving effect thereto, the Company is in Pro Forma Compliance with the covenant set forth in Section 6.12.

SECTION 6.05. Asset Sales. None of the Company or any Subsidiary will sell, transfer, lease or otherwise dispose of (including pursuant to any transfer or contribution to a Subsidiary), or exclusively license, any asset, including any Equity Interest owned by it, nor will any Subsidiary issue any additional Equity Interest in such Subsidiary (other than to the Company or a Subsidiary, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law) (each, a "Disposition"; provided that an Economic IP Transfer shall not constitute a Disposition), except:

(a) Dispositions of inventory or used or surplus equipment in the ordinary course of business or of cash and Permitted Investments and the granting of non-exclusive licenses and sublicenses of Intellectual Property in the ordinary course of business;

(b) Dispositions to the Company or any Subsidiary; provided that any such Dispositions involving a Subsidiary that is not a Guarantor Loan Party shall be made in compliance with Section 6.09; provided that no Disposition of Intellectual Property material to the business or operations of the Company and its Subsidiaries, taken as a whole, owned by a Guarantor Loan Party may be made to a Subsidiary that is not a Guarantor Loan Party pursuant to this clause (b);

(c) (i) Dispositions of Receivables in connection with the compromise or collection thereof in the ordinary course of business and not as part of any Permitted Receivables Facility and (ii) Dispositions of Receivables pursuant to a Permitted Receivables Facility;

(d) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

(e) any Permitted IP Transfer;

(f) sales by the Company or Subsidiaries of Receivables to one or more Receivables Subsidiaries in connection with any Permitted Receivables Facility; provided that (i) each such Permitted Receivables Facility is effected on terms which are considered customary for such a facility, as determined in good faith by the Company or such Subsidiary, (ii) the aggregate amount of the Seller's Retained Interests in such Permitted Receivables Facilities does not exceed an amount at any time outstanding that is customary for similar transactions, as determined in good faith by the Company or such Subsidiary and (iii) the proceeds to each such Receivables Subsidiary from the issuance of Third Party Interests are applied substantially simultaneously with the receipt thereof to the purchase from the Company or Subsidiaries of Receivables;

(g) Scheduled Dispositions and Sale/Leaseback Transactions permitted by Section 6.06;

(h) the issuance to Scopus Industrial or its Affiliates of 49% of the outstanding common Equity Interests of NCR Manaus pursuant to the Brazil Subscription Agreement;

(i) Dispositions of assets subject to any casualty or condemnation proceeding (including in lieu thereof);

(j) Dispositions of Investments in joint ventures (other than NCR Manaus) to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements and, to the extent made pursuant to the requirements of the Brazil Shareholders' Agreement, any sale or Disposition of Equity Interests of NCR Manaus to Scopus Industrial or its Affiliates or designees upon their exercise of call rights under such agreement;

(k) Dispositions of assets that are not permitted by any other clause of this Section; provided that all Dispositions made in reliance on this clause shall be made for fair value and at least 75% Cash Consideration; provided, further, that any Designated Non-Cash Consideration received by the Company or any of its Subsidiaries in respect of such sale, transfer, lease or other disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not in excess of \$25,000,000 at the time of the



receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be Cash Consideration;

(l) the sale by Retalix, Ltd. or a subsidiary of Retalix, Ltd. of, or the issuance by any subsidiary of Retalix, Ltd. of, Equity Interests in a subsidiary of Retalix, Ltd. to any Person upon the exercise of options or rights to acquire such Equity Interests outstanding prior to the date on which Retalix, Ltd. became a Subsidiary and not granted in contemplation thereof; and

(m) Dispositions of assets related to the business of the Company and its Subsidiaries to one or more joint ventures in exchange for Equity Interests in such joint ventures; provided that the aggregate book value of all assets Disposed of in reliance on this clause after the Effective Date shall not exceed the greater of (x) \$200,000,000 and (y) 2.5% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof.

“Cash Consideration” means, in respect of any Disposition by the Company or any Subsidiary, (a) cash or Permitted Investments received by it in consideration of such Disposition, (b) any liabilities (as shown on the most recent balance sheet of the Company provided hereunder or in the footnotes thereto) of the Company or such Subsidiary, other than liabilities that are by their terms subordinated in right of payment to the Loan Document Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Company and all of the Subsidiaries shall have been validly released by all applicable creditors in writing and (c) any securities received by the Company or such Subsidiary from such transferee that are converted by the Company or such Subsidiary into cash or Permitted Investments (to the extent of the cash or Permitted Investments received) within 90 days following the closing of the applicable Disposition.

Notwithstanding the foregoing, and other than Dispositions to the Company or a Subsidiary, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law, (i) no Disposition of any Equity Interests in any Subsidiary during a Pledge Effectiveness Period, or in any Foreign Borrower or Subsidiary Loan Party at any other time, shall be permitted unless, except with respect to any Foreign Borrower or Subsidiary Loan Party in the case of clause (g), (h), (j) or (l) above, such Equity Interests constitute all the Equity Interests in such Subsidiary held by the Company and the Subsidiaries, and in the case of any Disposition of a Foreign Borrower, such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23 and (ii) any Disposition of any assets pursuant to this Section 6.05 (except for those involving no party that is not a Loan Party), shall be for no less than the fair market value of such assets at the time of such Disposition.

SECTION 6.06. Sale/Leaseback Transactions. None of the Company or any Subsidiary will enter into any Sale/Leaseback Transaction, except for any such sale of any fixed or capital assets by any Subsidiary that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 180 days after such Subsidiary acquires or completes the construction of such fixed or capital asset (unless such Sale/Leaseback Transaction is entered into in order to effect a Scheduled Disposition of assets reflected as such in the letters provided to the Administrative Agent prior to the Effective Date); provided that (a) the sale or transfer of the property thereunder is permitted under Section 6.05, (b) any Capital Lease Obligations and Synthetic Lease Obligations arising in connection therewith are permitted under Section 6.01 and (c) any Liens arising in connection therewith (including Liens deemed to arise in connection with any such Capital Lease Obligations and Synthetic Lease Obligations) are permitted under Section 6.02.

SECTION 6.07. Hedging Agreements. None of the Company or any Subsidiary will enter into any Hedging Agreement, except (a) Hedging Agreements entered into to hedge or mitigate risks to which the Company or any Subsidiary has actual exposure (other than in respect of Equity Interests or Indebtedness of the Company or any Subsidiary) and (b) Hedging Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Company or any Subsidiary.

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness. (a) None of the Company or any Subsidiary will declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that (i) the Company may declare and pay dividends with respect to its Equity Interests payable solely in additional Equity Interests permitted hereunder, (ii) any Subsidiary may declare and pay dividends or make other distributions with respect to its capital stock, partnership or membership interests or other similar Equity Interests, or make other Restricted Payments in respect of its Equity Interests, in each case ratably to the holders of such Equity Interests or its Equity Interests of the relevant class, as the case may be, (iii) the Company may acquire Equity Interests upon the exercise of stock options if such Equity Interests are transferred in satisfaction of a portion of the exercise price of such options, (iv) the Company may make cash payments in lieu of the issuance of fractional shares representing insignificant interests in the Company in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests in the Company, (v) the Company may make Restricted Payments, not exceeding \$5,000,000 in the aggregate for any fiscal year, pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, officers or employees of the Company and the Subsidiaries; provided, however, that any such permitted amount not utilized in a particular fiscal year may be carried forward and utilized in subsequent fiscal years, (vi) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments in an amount not exceeding the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such Restricted Payment in reliance on this clause (vi), (vii) so long as no Default or Event of Default shall have occurred and be continuing, the Company may make

Restricted Payments in respect of Equity Interests of the Company in an amount not to exceed (x) \$50,000,000 in the aggregate during the fiscal year ended December 31, 2019, and (y) \$50,000,000 in the aggregate during any fiscal year thereafter; provided, however, that any such permitted amount not utilized to make Restricted Payments in a particular fiscal year may be carried forward and utilized to make Restricted Payments in subsequent fiscal years, (viii) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments with respect to, and in connection with, redemptions of the Existing Preferred, (ix) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto (determined, however, solely for purposes of this clause (ix) by subtracting 0.50 from the financial covenant level otherwise applicable in Section 6.12), the Company may make other Restricted Payments, (x) any Foreign Subsidiary may make Restricted Payments to redeem its outstanding Equity Interests held by minority investors in such Foreign Subsidiary and (xi) in the case of a Receivables Subsidiary, to make Restricted Payments in respect of the Seller's Retained Interests or other applicable Equity Interests to the extent of net income or other assets available therefor.

(b) Prior to the Investment Grade Date, none of the Company or any Subsidiary will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Junior Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, defeasance, cancellation or termination of any Junior Indebtedness, except:

(i) regularly scheduled interest and principal payments as and when due in respect of any Junior Indebtedness, and any payments or prepayments in respect of Junior Indebtedness owed by any Loan Party to the Company or any Subsidiary, in each case other than payments in respect of Junior Indebtedness prohibited by the subordination provisions thereof;

(ii) refinancings of Junior Indebtedness to the extent permitted under Section 6.01;

(iii) the conversion of any Junior Indebtedness to Equity Interests (other than Disqualified Equity Interests) of the Company;

(iv) payments of secured Junior Indebtedness that becomes due as a result of the voluntary sale or transfer of the assets securing such Junior Indebtedness in transactions permitted hereunder;

(v) payments of or in respect of Junior Indebtedness made solely with Equity Interests in the Company (other than Disqualified Equity Interests); and

(vi) so long as no Default shall have occurred and be continuing, any payment of or in respect of Junior Indebtedness in an amount not in excess of the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such payment in reliance on this clause (vi).

SECTION 6.09. Transactions with Affiliates. None of the Company or any Subsidiary will sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that are at prices and on terms and conditions not less favorable to the Company or such Subsidiary than those that would prevail in arm's-length transactions with unrelated third parties, (b) transactions between or among the Guarantor Loan Parties not involving any other Affiliate, (c) any Restricted Payment permitted under Section 6.08, (d) issuances by the Company of Equity Interests, (e) compensation, expense reimbursement and indemnification of, and other employment arrangements with, directors, officers and employees of the Company or any Subsidiary entered in the ordinary course of business, (f) Dispositions between Subsidiaries of the Company or between the Company and any Subsidiary of the Company permitted under Section 6.05, (g) transactions required by and effected in accordance with the terms of the Brazil Transaction Documents, (h) payroll, travel and similar advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (i) loans or advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (j) transactions between or among non-Loan Parties not involving any other Affiliate, (k) in connection with any Permitted Receivables Facility and (l) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary permitted under Section 6.01.

SECTION 6.10. Restrictive Agreements. None of the Company or any Subsidiary will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that restricts or imposes any condition upon (a) the ability of the Company or any Subsidiary to create, incur or permit to exist any Lien upon any of its assets to secure any Obligations or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to its Equity Interests or to make or repay loans or advances to the Company or any Subsidiary or to Guarantee Indebtedness of the Company or any Subsidiary; provided that (i) the foregoing shall not apply to (A) restrictions and conditions imposed by Requirements of Law or by any Loan Document, (B) restrictions and conditions existing on the Effective Date identified on Schedule 6.10 (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), (C) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreement (including in the case of NCR Manaus, restrictions and conditions set forth in the Brazil Transaction Documents); provided that such restrictions and conditions apply only to such Subsidiary and to any Equity Interests in such Subsidiary, and (D) restrictions and conditions imposed by transactional agreements and documents (including organizational documents of Receivables Subsidiaries) governing Permitted Receivables Facilities and related Indebtedness permitted by clause (xi) of Section 6.01(a) and by Section 6.05(f); provided that any such restrictions and conditions (I) are customary and usual for such

Permitted Receivables Facilities, as determined in good faith by the Company or such Subsidiary, (II) in the case of restrictions and conditions of the type referred to in clause (a) of the foregoing, apply only to assets of and Interests in such Receivables Subsidiary, and, in the case of any Intercompany Permitted Receivables Facility Note issued by such Receivables Subsidiary that is held in whole or in part by the Company or any Subsidiary, permits the pledge of such Intercompany Permitted Receivables Facility Note to secure the Obligations, subject, if applicable, to the terms of any intercreditor agreement, subordination agreement or similar agreement with respect thereto that is reasonably acceptable to the parties thereto, (ii) clause (a) of the foregoing shall not apply to (A) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by clause (v) of Section 6.01(a) if such restrictions or conditions apply only to the assets securing such Indebtedness or (B) customary provisions in leases and other agreements restricting the assignment thereof, (iii) the foregoing shall not apply to (A) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary, or a business unit, division, product line or line of business or other assets in a transaction permitted by Section 6.05, that are applicable solely pending such sale; provided that such restrictions and conditions apply only to the Subsidiary, or the business unit, division, product line or line of business or other asset, that is to be sold and such sale is permitted hereunder, (B) restrictions and conditions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and otherwise permitted by clause (vi) of Section 6.01(a) (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition); provided that such restrictions and conditions apply only to such Subsidiary and were not incurred in contemplation of such acquisition, and (C) restrictions and conditions imposed by agreements relating to Indebtedness of Foreign Subsidiaries permitted under Section 6.01(a); provided that such restrictions and conditions apply only to Foreign Subsidiaries, and (iv) clause (b) of the foregoing shall not apply to restrictions and conditions imposed pursuant to Permitted Additional Indebtedness incurred pursuant to Section 6.01 that are not more restrictive than the terms hereof, as reasonably determined by the Company. Nothing in this paragraph shall be deemed to modify the requirements set forth in the definition of the term “Collateral and Guarantee Requirement” or the obligations of the Loan Parties under Sections 5.03, 5.04 or 5.12 or under the Security Documents.

SECTION 6.11. Amendment of Material Documents. None of the Company or any Subsidiary will amend, modify or waive any of its rights under (i) any agreement or instrument governing or evidencing any Junior Indebtedness, (ii) its certificate of incorporation, bylaws or other organizational documents, or (iii) any of the Brazil Transaction Documents, in each case to the extent such amendment, modification or waiver could reasonably be expected to be adverse in any material respect to the Lenders.

SECTION 6.12. Leverage Ratio. The Company will not permit the Leverage Ratio on the last day of any fiscal quarter of the Company to exceed the Permitted Leverage Ratio then in effect. The provisions of Section 6.12 are solely for the benefit of Revolving Lenders and, notwithstanding the provisions of Section 9.02, a Majority in Interest of the Revolving Lenders (excluding the Revolving Commitments and Revolving Exposure of Defaulting Lenders) may (i) amend or otherwise modify Section 6.12 or, solely for purposes of

Section 6.12, the defined terms used, directly or indirectly, therein, or (ii) waive any noncompliance with Section 6.12 or any Event of Default resulting from any such noncompliance, in each case without the consent of any other Lenders.

SECTION 6.13. Fiscal Year. The Company will not, and the Company will not permit any other Loan Party to, change its fiscal year to end on a date other than December 31.

## ARTICLE VII

### Events of Default

If any of the following events ("Events of Default") shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five days;

(c) any representation or warranty made or deemed made by or on behalf of any Borrower or any Subsidiary in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other information furnished pursuant to any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) any Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03, 5.05 (with respect to the existence of the Borrowers), 5.11 or 5.14 or in Article VI; provided that any failure to comply with the Section 6.12 shall not constitute an Event of Default with respect to any Term Loans unless and until the Administrative Agent or a Majority in Interest of the Revolving Lenders shall have terminated the Revolving Commitments and/or declared the Revolving Loans then outstanding to be due and payable in accordance with this Article VII;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b) or (d) of this Article VII), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent or any Lender to the Company (with a copy to the Administrative Agent in the case of any such notice from a Lender);

(f) any Borrower or any Subsidiary shall fail to make any payment (whether of principal, interest, termination payment or other payment obligation and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, after giving effect to any period of grace specified for such payment in the agreement or instrument governing such Material Indebtedness;

(g) (i) any event or condition occurs that results in any Material Indebtedness (other than with respect to any Hedging Agreements) becoming due and payable (or subject to compulsory repurchase or redemption) prior to its scheduled maturity or that enables or permits, in each case after the expiration of the grace period, if any, provided for therein, the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause such Material Indebtedness to become due and payable (or require a compulsory repurchase or redemption thereof) prior to its stated maturity or (ii) an “early termination date” (or equivalent event) under any Hedging Agreement constituting Material Indebtedness shall occur as a result of any event of default, “termination event” (or equivalent event) under such Hedging Agreement as to which the Company or any Subsidiary is the “defaulting party” or “affected party” (or equivalent term) as a result of which the Company or any Subsidiary is required to pay, or that enables the applicable counterparty, after the expiration of the grace period, if any, provided for therein, to require the Company or any Subsidiary to pay, the termination value in respect of such Hedging Agreement; provided that this clause (g) shall not apply to (A) any secured Indebtedness that becomes due as a result of a casualty event in respect of or the voluntary sale or transfer of the assets securing such Indebtedness or (B) any Indebtedness that becomes due as a result of a refinancing thereof permitted under Section 6.01;

(h) one or more ERISA Events shall have occurred that, in the opinion of the Required Lenders, could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Borrower or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect or (ii) the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or a Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(j) any Borrower or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation permitted by clause (v) of Section 6.03(a)), reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and

appropriate manner, any proceeding or petition described in clause (i) of this Article VII, (iii) apply for or consent to the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors, or the board of directors (or similar governing body) of a Borrower or any Material Subsidiary (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to above in this clause (j) or clause (i) of this Article VII;

(k) any Borrower or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(l) one or more judgments for the payment of money in an aggregate amount in excess of (x) \$150,000,000 in the case of a Borrower or any Domestic Subsidiary or (y) \$150,000,000 in the case of other Foreign Subsidiaries (other than any such judgment covered by insurance (other than under a self-insurance program) to the extent a claim therefor has been made in writing and liability therefor has not been denied by the insurer) and in excess of amounts covered by indemnification obligations of third parties that shall have the financial capacity to pay such obligations (in the case of each such third party, to the extent a claim therefor has been made in writing and liability therefor has not been denied by such third party), shall be rendered against any Borrower, any Subsidiary or any combination thereof and the same shall remain unpaid or undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Borrower or any Subsidiary to enforce any such judgment;

(m) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any material Collateral, with the priority required by the applicable Security Document, except as a result of (i) a sale or transfer of the applicable Collateral in a transaction permitted under the Loan Documents, (ii) the Administrative Agent's failure to maintain possession of any stock certificate, promissory note or other instrument delivered to it under the Collateral Agreement or to maintain in effect Uniform Commercial Code financing statements, unless such failure is attributable to any failure of a Loan Party to perform its obligations under any Loan Document or (iii) the occurrence of a Release Date and the exercise by the Company of its rights under Section 9.14(b);

(n) any Guarantee of a Loan Party purported to be created under any Loan Document shall cease to be, or shall be asserted by any Loan Party not to be, in full force and effect, except upon the consummation of any transaction permitted under this Agreement as a result of which the Subsidiary Loan Party providing such Guarantee ceases to be a Subsidiary; or

(o) a Change in Control;



then, and in every such event (other than an event with respect to any Borrower described in clause (i) or (j) of this Article VII), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part (but ratably as among the Classes of Loans and the Loans of each Class at the time outstanding), in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall become due and payable immediately and (iii) require the deposit of cash collateral in respect of LC Exposure as provided in Section 2.04(i), in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; and in the case of any event with respect to any Borrower described in clause (i) or (j) of this Article, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall immediately and automatically become due and payable and the deposit of such cash collateral in respect of LC Exposure shall immediately and automatically become due, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; provided, however, that upon the occurrence and during the continuance of any Event of Default attributable to a failure to comply with Section 6.12, (x) actions pursuant to clause (i) or (ii) may be taken by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) with respect to the Revolving Loans only (without the requirement for Required Lender action) or by the Administrative Agent at the direction of such Lenders, and (y) only if action has been taken in respect of such Event of Default under clause (i) or (ii) (with respect to the Revolving Loans) by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) or by the Administrative Agent at the direction of such Lenders, then such Event of Default will be deemed to be an Event of Default with respect to all Lenders hereunder and the remedies set forth above can be exercised in respect of all Loans.

In addition to any other rights and remedies granted to the Administrative Agent and the Lenders in the Loan Documents, the Administrative Agent on behalf of the Lenders may exercise all rights and remedies of a secured party under the Uniform Commercial Code or any other applicable law. Without limiting the generality of the foregoing, in connection with the exercise of rights under this Article VII, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Loan Party or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, or consent to the use by the Loan Parties of any cash collateral arising in respect of the Collateral on such terms as the Administrative Agent deems reasonable, and/or may forthwith sell, lease, assign give an option or options to purchase or otherwise dispose of and deliver, or acquire by credit bid on behalf of the Lenders, the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any Lender or elsewhere,

upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery, all without assumption of any credit risk. The Administrative Agent or any Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Loan Party, which right or equity is hereby waived and released. Each Loan Party further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Loan Party's premises or elsewhere. The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to this Article VII, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any other way relating to the Collateral or the rights of the Administrative Agent and the Lenders hereunder, including attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect subject to Section 5.02 of the Collateral Agreement, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including Section 9-615(a)(3) of the Uniform Commercial Code, need the Administrative Agent account for the surplus, if any, to any Loan Party. To the extent permitted by applicable law, each Loan Party waives all claims, damages and demands it may acquire against the Administrative Agent or any Lender arising out of the exercise by them of any rights under this paragraph after the occurrence of an Event of Default. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. It is expressly noted that the provisions of this paragraph shall not apply to any Collateral which is subject to a Luxembourg law governed Foreign Pledge Agreement (the "Luxembourg Security"), and that only the provisions of the relevant Luxembourg Security shall apply to such Collateral.

## ARTICLE VIII

### The Administrative Agent

Each of the Lenders and the Issuing Banks hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors to serve as administrative agent and collateral agent under the Loan Documents, and authorizes the Administrative Agent to take such actions and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto, including entering into any intercreditor agreement contemplated by Section 6.02(a)(xvii). In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders and the Issuing Banks hereby grants to the Administrative Agent any required powers of attorney to execute any Security Document governed by the laws of such jurisdiction on such Lender's or Issuing Bank's behalf.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender or an Issuing Bank as any other Lender or Issuing Bank and

may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or to exercise any discretionary power, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion, could expose the Administrative Agent to liability or be contrary to any Loan Document or applicable law and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company, any Subsidiary or any other Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or in the absence of its own gross negligence or wilful misconduct, as determined by a court of competent jurisdiction by a final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Company, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's reliance on any Electronic Signature transmitted by telecopy, emailed pdf, or any other electronic means that reproduces an image of an actual executed signature page), or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not have any liability arising from any confirmation of the Revolving Exposure or the component amounts thereof.

The Administrative Agent shall be entitled to rely, and shall not incur any liability for relying, upon any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent also shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to be made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof), and may act upon any such statement prior to receipt of written confirmation thereof. The Administrative Agent may consult with legal counsel (who may be counsel for any Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any of and all its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of and all their duties and exercise their rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the terms of this paragraph, the Administrative Agent may resign at any time from its capacity as such. In connection with such resignation, the Administrative Agent shall give notice of its intent to resign to the Lenders, the Issuing Banks and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Company (which shall not be unreasonably withheld), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, with the consent of the Company (which shall not be unreasonably withheld), appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date, whereupon the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the removed Administrative Agent; provided that, in each case, (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or

contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed by the Company and such successor. Notwithstanding the foregoing, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Company, whereupon, on the date of effectiveness of such resignation stated in such notice, (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Security Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this paragraph (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (b) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation or removal from its capacity as such, the provisions of this Article and Section 9.03, as well as any absence of fiduciary duty (and related exculpatory provisions), reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Each Lender and Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking

action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Effective Date, or delivering its signature page to an Assignment and Assumption or an Incremental Facility Agreement pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

No Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition. Each Secured Party hereby (or in the case of each Secured Party that is not a Credit Party, by its acceptance of the benefits of the Security Documents and the Collateral and of the Guarantees of the Obligations provided under the Loan Documents) irrevocably authorizes the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or

their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

In furtherance of the foregoing and not in limitation thereof, no Hedging Agreement, agreement with respect to cash management obligations, agreement with respect to Secured Performance Support Obligations or other agreement (other than the Loan Documents) the obligations under which constitute Obligations will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such Hedging Agreement, agreement with respect to Secured Performance Support Obligations or other agreement shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, (i) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(a)(v) and (ii) to agree to or enter into subordination or intercreditor agreements applicable to any Interests in any Receivables Subsidiary or any interest in Receivables subject to a Permitted Receivables Facility, in each case to the extent pledged under any Security Document to secure the Obligations. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative

Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

Notwithstanding anything herein to the contrary, neither the Arrangers nor any Person named on the cover page of this Agreement as a Joint Syndication Agent, Co-Documentation Agent, Joint Lead Arranger or Joint Bookrunner shall have any duties or obligations under this Agreement or any other Loan Document (except in its capacity, as applicable, as a Lender or an Issuing Bank), but all such Persons shall have the benefit of the indemnities provided for hereunder.

The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and none of the Borrowers or any other Loan Party shall have any rights as a third party beneficiary of any such provisions except as set forth herein with respect to the Company's consent rights to successor Administrative Agents.

Each Lender represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Commitments and this Agreement satisfies the requirements of sub-



sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless (1) the immediately preceding clause (i) is true with respect to such Lender or (2) such Lender has provided another representation, warranty and covenant as provided in the immediately preceding clause (iv), such Lender further represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Syndication Agent and Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that none of the Administrative Agent or any of the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documents Agents on the cover page hereof or their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by any Person under this Agreement, any Loan Document or any documents related hereto or thereto).

## ARTICLE IX

### Miscellaneous

SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(i) if to any Borrower or the Borrower Agent, to it at NCR Corporation, 3095 Satellite Boulevard, Duluth, Georgia 30096, Attention of Treasurer (Fax No. 678-808-5207) (email: John.Boudreau@ncr.com), with a copy to NCR Corporation, 3097 Satellite Boulevard, Duluth, Georgia, 30096, Attention: General Counsel/Notices, 2nd Floor (email: law.notices@ncr.com);

(ii) if to the Administrative Agent with respect to any Borrowing, Letter of Credit or LC Disbursement denominated in Euros or Sterling, to J.P. Morgan Europe Limited, Loans Agency 6th floor, 25 Bank Street, Canary Wharf, London E145JP, United Kingdom, Attention: Loans Agency, Fax No. +44 20 7777 2360 (email: loan\_and\_agency\_london@jpmorgan.com), with a copy to the Persons set forth in clause (iii) below;

(iii) if to the Administrative Agent with respect to any Borrowings, Letter of Credit or LC Disbursements denominated in Dollars, Euros or Sterling, to Loan and Agency Services Group, 500 Stanton Christiana Road, NCC5, Newark, Delaware 19713-2107, Attention: Mary Crews (Telephone No. 302-634-5758 and mary.crews@jpmorgan.com);

(iv) if to any Issuing Bank, to it at its address (or fax number) most recently specified by it in a notice delivered to the Administrative Agent and the Company (or, in the absence of any such notice, to the address (or fax number) set forth in the Administrative Questionnaire of the Lender that is serving as such Issuing Bank or is an Affiliate thereof); and

(v) if to any other Lender, to it at its address (or fax number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by fax shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); and notices delivered through electronic communications to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notices and other communications to the Lenders and Issuing Banks hereunder may be delivered or furnished by electronic communications (including email and Internet and intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices under Article II to any Lender or Issuing Bank if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Any notices or other communications to the Administrative Agent or the Company may be delivered or furnished by electronic communications pursuant to procedures approved by the recipient thereof prior thereto; provided that approval of such procedures may be limited or rescinded by any such Person by notice to each other such Person. Notices delivered by electronic mail (or notice of electronic posting) shall be deemed received upon sending, if sent during business hours, or, otherwise upon opening of the next Business Day unless the sender receives a notice of non-delivery.

(c) Any party hereto may change its address, e-mail or fax number for notices and other communications hereunder by written notice to the other parties hereto.

(d) Each Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communication by posting such Communication on DebtDomain, Intralinks, Syndtrak or a similar electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available". Neither the Administrative Agent nor any of its Related Parties warrants, or shall be deemed to 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 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, or shall be deemed to be made, by the Administrative Agent or any of its Related Parties in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties have any liability to any Borrower, any Lender, any Issuing 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 any Borrower's or the Administrative Agent's transmission of Communications through the Platform, except to the extent of direct or actual damages (and not any special, indirect, consequential or punitive damages) that are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of the Administrative Agent or its affiliates, officers or employees in performing the services hereunder.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Without limiting the generality of the foregoing, the execution and delivery of this Agreement, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Sections 2.13, 2.20, 2.21 and 2.23 and in the Collateral Agreement, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Company, the Administrative Agent and the Required Lenders and, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders; provided that (i) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Company and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (ii) no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent or the waiver of any Default, Event of Default or mandatory prepayment shall not

constitute an increase of any commitment), (B) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (other than as a result of (x) any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.12(c), (y) any amendment of any financial covenant herein (or any component definition) or (z) any extension of the date on which financial statements under Section 5.01(a) or 5.01(b) or a Compliance Certificate is required to be delivered, it being understood that a waiver of a Default or any such amendment or extension shall not constitute a reduction of interest for this purpose), or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled maturity date of any Loan, or the date of any scheduled payment of the principal amount of any Term Loan under Section 2.09, or the required date of reimbursement of any LC Disbursement, or any date for the payment of any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (D) except as provided in Sections 2.20 or 2.21, change Section 2.17(b) or 2.17(c) in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender, (E) except pursuant to an Incremental Facility Agreement or a Permitted Amendment to reflect a new Class of Loans or Commitments hereunder, change any of the provisions of this Section or the percentage set forth in the definition of the term "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be); provided that, with the consent of the Required Lenders or the Majority in Interest of a Class of Lenders, as the case may be, the provisions of this Section and the definition of the term "Required Lenders" or "Majority in Interest" may be amended to include references to any new class of loans created under this Agreement (or to lenders extending such loans) on substantially the same basis as the corresponding references relating to the existing Classes of Loans or Lenders, (F) release Guarantees constituting all or substantially all the value of the Guarantees under the Collateral Agreement, or limit the liability of Loan Parties in respect of Guarantees constituting such value, or limit its liability in respect thereof, in each case without the written consent of each Lender, (G) release all or substantially all the Collateral from the Liens of the Security Documents, without the written consent of each Lender (except as expressly provided in Section 9.14 or the applicable Security Document (including any such release by the Administrative Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Security Documents), it being understood that an amendment or other modification of the type of obligations secured by the Security Documents shall not be deemed to be a release of the Collateral from the Liens of the Security Documents) and (H) change any provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of Collateral or payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders representing a Majority in Interest of each affected Class; provided, further, that (1) no such agreement shall amend, modify, extend or otherwise affect the rights or obligations of the Administrative Agent or any Issuing Bank without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be, (2) any amendment, waiver or other modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of a particular Class (but not the Lenders of any other Class), may be

effected by an agreement or agreements in writing entered into by the Company and the requisite number or percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time, (3) any amendment, waiver or other modification of this Agreement with respect to the financial covenant set forth in Section 6.12 (including any breach thereof) and any definitions related thereto (but solely as such definitions are used for purposes of such covenant) may be effected by an agreement or agreements in writing entered into by Parent, the Borrowers and the Majority in Interest of the Revolving Lenders and (4) any amendment, waiver or other modification of Section 4.02 with respect to the funding of any Revolving Loan shall only require the consent of a Majority in Interest of the Revolving Lenders. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of (x) any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (A), (B), (C) or (D) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be affected by such amendment, waiver or other modification or (y) in the case of any vote requiring the approval of all Lenders or each affected Lender, any Lender that receives payment in full of the principal of and interest accrued on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, waiver or other modification becomes effective and whose Commitments terminate by the terms and upon the effectiveness of such amendment, waiver or other modification. Notwithstanding anything herein to the contrary, the Administrative Agent and the Company may, without the consent of any Secured Party or any other Person, amend this Agreement, the Collateral Agreement and any other Security Document to add provisions with respect to “parallel debt” and other non-U.S. guarantee and collateral matters, including any authorizations, collateral trust arrangements or other granting of powers by the Lenders and the other Secured Parties in favor of the Administrative Agent, in each case if such amendment is necessary or desirable to create or perfect, or preserve the validity, legality, enforceability and perfection of, the Guarantees and Liens contemplated to be created pursuant to this Agreement (with the Company hereby agreeing to provide its agreement to any such amendment to this Agreement, the Collateral Agreement or any other Security Document reasonably requested by the Administrative Agent).

(c) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Company, the Required Lenders, the Administrative Agent and each lender providing any additional Revolving Commitment or term loan (A) to increase the Aggregate Revolving Commitments of the Lenders, (B) to add one or more additional tranches of term loans to this Agreement and to provide for the ratable sharing of the benefits of the Loan Documents with the other then outstanding Obligations in respect of the extensions of credit from time to time outstanding under any such additional tranche of term loans and (C) to include appropriately the lenders under any such additional tranche of term loans in any determination of Required Lenders or the determination of the requisite Lenders under any other provision of this Agreement.

(d) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of

such Lender. Any amendment, waiver or other modification effected in accordance with this Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

(e) Notwithstanding anything to the contrary herein, in connection with any determination as to whether the requisite Lenders have (A) consented (or not consented) to any amendment or waiver of any provision of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to any Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, any Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to the Loans and/or Commitments (each, a “Net Short Lender”) shall have no right to vote any of its Loans and Commitments and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders (in each case unless otherwise agreed to by the Company). For purposes of determining whether a Lender has a “net short position” on any date of determination: (i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars, (ii) notional amounts in other currencies shall be converted to the Dollar Equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes the Company or any other Loan Party or any instrument issued or guaranteed by the Company or any other Loan Party shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the “ISDA CDS Definitions”) shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a “Deliverable Obligation” under the terms of such derivative transaction or (z) any of the Company or any other Loan Party (or any of their successors) is designated as a “Reference Entity” under the terms of such derivative transactions, and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions are functionally equivalent to a

transaction that offers the Lender protection in respect of the Loans or the Commitments, or as to the credit quality of any of the Company or any other Loan Party (or any of their successors) other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by any of the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index. In connection with any such determination, each Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to the Company and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Company and the Administrative Agent shall be entitled to rely on each such representation and deemed representation). In no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is a Net Short Lender.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Managing Arranger and their Affiliates, including expenses incurred in connection with due diligence and the reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP, local counsel in any foreign jurisdiction, and any other counsel for any of the foregoing retained with the Company's consent (such consent not to be unreasonably withheld, conditioned or delayed), in connection with the structuring, arrangement and syndication of the credit facilities provided for herein and any credit or similar facility refinancing or replacing, in whole or in part, any of the credit facilities provided for herein, including the preparation, execution and delivery of the Engagement Letter and the Fee Letters, as well as the preparation, execution, delivery and administration of this Agreement, the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for any of the foregoing, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Administrative Agent (and any sub-agent thereof), the Arrangers, each Lender and Issuing Bank (each such Person, an "Indemnified Institution"), and each Related Party of any of the foregoing Persons (each Indemnified Institution and each such Person being called an "Indemnitee"), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the reasonable and documented or invoiced out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee (including reasonable fees, disbursements and other charges of one counsel for all Indemnitees, taken as a whole, and, if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting

in multiple jurisdictions) for all Indemnitees taken as a whole (and, in the case of an actual or perceived conflict of interest, where an Indemnified Institution affected by such conflict informs the Company of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnified Institution)), incurred by or asserted against any Indemnitee arising out of or relating to, based upon, or as a result of (i) the structuring, arrangement and the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of the Engagement Letter, the Fee Letters, this Agreement, the other Loan Documents or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Engagement Letter, the Fee Letters, this Agreement or the other Loan Documents of their obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on, at, under or from any property currently or formerly owned, leased or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and whether initiated against or by any party to the Engagement Letter, any Fee Letter, this Agreement or any other Loan Document, any Affiliate of any of the foregoing or any third party (and regardless of whether any Indemnitee is a party thereto and regardless of whether such claim, litigation or proceeding is brought by a third party or by the Company or any of the Subsidiaries); provided that such indemnity shall not, (x) as to any Indemnified Institution, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from (i) the bad faith, gross negligence or willful misconduct of, or material breach of this Agreement by, such Indemnified Institution or any of its Related Parties (as determined by a court of competent jurisdiction in a final and non-appealable decision) or (y) as to any other Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the bad faith, gross negligence or willful misconduct of, or a material breach of this agreement by, such Indemnitee (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(c) To the extent that the Company fails to pay any amount required to be paid by it under paragraph (a) or (b) of this Section to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any Issuing Bank in connection with such capacity. For purposes of this Section, a Lender's "pro rata share" shall be determined based upon its share of the sum of the total Revolving Exposures, outstanding Term Loans and unused Commitments at the time (or most recently outstanding and in effect).



(d) To the extent permitted by applicable law, the Company shall not assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet) in the absence of willful misconduct, bad faith or gross negligence (as determined by a court of competent jurisdiction in a final, non-appealable decision). To the extent permitted by applicable law, no party hereto shall assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee or any other party hereto or its Affiliates on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided, however, that nothing contained in this sentence will limit the indemnity and reimbursement obligations of the Company set forth in this Section.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) (it being understood that a merger, consolidation, amalgamation, reorganization, recapitalization or other similar transaction not otherwise prohibited hereunder shall not constitute an assignment or transfer by a Borrower) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section and, in the case of any Revolving Lender and in relation to any rights and obligations of any Revolving Lender toward a Dutch Borrower, to an assignee that is a Dutch Non-Public Lender. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section), the Arrangers and, to the extent expressly contemplated hereby, the sub-agents of the Administrative Agent and the Related Parties of any of the Administrative Agent, any Arranger, any Issuing Bank and any Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Notwithstanding anything to the contrary contained herein, neither any Borrower nor any Affiliate of any Borrower may acquire by assignment, participation or otherwise any right to or interest in any of the Commitments or Term Loans hereunder (and any such attempted acquisition shall be null and void). Subject to the conditions set forth in paragraph (b) (ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its

Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Company; provided that no consent of the Company shall be required (1) for an assignment of Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund, (2) for an assignment of Revolving Commitments and associated Revolving Loans to a Revolving Lender or an Affiliate of a Revolving Lender (other than an Approved Fund), (3) in connection with any assignment as part of the initial syndication of the Term Loans or (4) if an Event of Default has occurred and is continuing, for any other assignment; provided, further, that the Company shall be deemed to have consented to any such assignment of Term Loans unless it shall object thereto by written notice to the Administrative Agent within ten Business Days after the Company has received written notice thereof;

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) each Issuing Bank with outstanding Letters of Credit in excess of \$20,000,000, in the case of any assignment of all or a portion of a Revolving Commitment or any Lender's obligations in respect of its LC Exposure.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$500,000, in the case of assignments of Term Loans or Term Commitments, and \$5,000,000, in the case of assignments of Revolving Commitments, in each case unless each of the Company and the Administrative Agent otherwise consents; provided that no such consent of the Company shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause (B) shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans but not those in respect of a second Class;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with, unless

waived by the Administrative Agent, a processing and recordation fee of \$3,500; provided that only one such processing and recordation fee shall be payable in the event of simultaneous assignments from any Lender or its Approved Funds to one or more other Approved Funds of such Lender (and if a Loan Party is required to be a party to such assignment it shall not (except in the case of an assignment pursuant to Section 2.18(b)) be required to pay such fee);

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable law, including Federal, State and foreign securities laws; and

(E) at the time of each assignment pursuant to this Section 9.04(b), the respective assignee shall provide to the relevant Loan Party and the Administrative Agent the appropriate forms and certificates as provided, and cooperate with the relevant Loan Party as required, under Section 2.16.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16, 2.22 and 9.03).

(iv) The Administrative Agent shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and records of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and, as to entries pertaining to it, any Issuing Bank or Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon receipt by the Administrative Agent of an Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder) and the processing and recordation fee referred to in this Section, the Administrative

Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that the Administrative Agent shall not be required to accept such Assignment and Assumption or so record the information contained therein if the Administrative Agent reasonably believes that such Assignment and Assumption lacks any written consent required by this Section or is otherwise not in proper form, it being acknowledged that the Administrative Agent shall have no duty or obligation (and shall incur no liability) with respect to obtaining (or confirming the receipt) of any such written consent or with respect to the form of (or any defect in) such Assignment and Assumption, any such duty and obligation being solely with the assigning Lender and the assignee. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph, and following such recording, unless otherwise determined by the Administrative Agent (such determination to be made in the sole discretion of the Administrative Agent, which determination may be conditioned on the consent of the assigning Lender and the assignee), shall be effective notwithstanding any defect in the Assignment and Assumption relating thereto. Each assigning Lender and the assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the Administrative Agent that all written consents required by this Section with respect thereto (other than the consent of the Administrative Agent) have been obtained and that such Assignment and Assumption is otherwise duly completed and in proper form, and each assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the assigning Lender and the Administrative Agent that such assignee is an Eligible Assignee.

(vi) Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04(b), whether or not such assignment or transfer is reflected in the Register, shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(c) (i) Any Lender may, without the consent of any Borrower, the Administrative Agent or any Issuing Bank, sell participations to one or more Eligible Assignees ("Participants") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and Loans of any Class); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant or requires the approval of all the Lenders. Each Borrower agrees that each

Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 2.22 (subject to the requirements and limitations therein, including the requirements under Sections 2.16(f), (g), (h) and (i) (it being understood that the documentation required under Sections 2.16(f), (g), (h) and (i) shall be delivered to the participating Lender and the participating Lender shall ensure that the terms of the participation require the Participant to cooperate as required under Section 2.16(g), (h) and (i))) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (x) agrees to be subject to the provisions of Sections 2.17 and 2.18 as if it were an assignee under paragraph (b) of this Section and (y) shall not be entitled to receive any greater payment under Section 2.14, 2.16 or 2.22, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company's request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 2.18(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a nonfiduciary agent of each applicable Borrower, maintain a register on which it enters the name and address of each Participant to which it has sold a participation and the principal amounts (and stated interest) of each such Participant's interest in the Loans or other rights and obligations of such Lender under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Loans or other rights and obligations under any this Agreement) except to the extent that such disclosure is necessary to establish that such Loan or other right or obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Arranger, any Issuing Bank

or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any LC Exposure is outstanding and so long as the Commitments have not expired or terminated. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement or any other Loan Document, in the event that, in connection with the refinancing or repayment in full of the credit facilities provided for herein, an Issuing Bank shall have provided to the Administrative Agent a written consent to the release of the Revolving Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Bank (whether as a result of the obligations of the applicable Borrower (and any other account party) in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Bank, or being supported by a letter of credit that names such Issuing Bank as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents, and the Revolving Lenders shall be deemed to have no participations in such Letter of Credit, and no obligations with respect thereto, under Section 2.04(d) or 2.04(f). The provisions of Sections 2.14, 2.15, 2.16, 2.17(e), 2.22 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Signatures. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties hereto relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof, including the commitments of the Lenders and, if applicable, their Affiliates under the Engagement Letter and any commitment advices submitted by them (but do not supersede any other provisions of the Engagement Letter or the Fee Letters (or any separate letter agreements with respect to fees payable to the Administrative Agent or any Issuing Bank) that do not by the terms of such documents terminate upon the effectiveness of this Agreement, all of which provisions shall remain in full force and effect). Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Loan Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each an "Ancillary Document") that is an Electronic Signature transmitted by

telecopy, emailed pdf. or any other electronic means that reproduces an image of ~~the~~an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words “execution”,<sup>22</sup> “signed”,<sup>22</sup> “signature”,<sup>22</sup> “delivery,” and words of like import in or relating to ~~any document to be signed in connection with~~ this Agreement ~~and the transactions contemplated hereby~~, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, ~~to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act~~; provided that, notwithstanding anything contained herein to the contrary, the Administrative Agent shall not be under any obligation to agree to accept ~~electronic signatures~~Electronic Signatures in any form or in any format ~~unless expressly agreed to by the Administrative Agent~~without its prior written consent and pursuant to procedures approved by it; provided, further, without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of a Borrower or any other Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, each Loan Party 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 Lenders, the Borrowers and the Loan Parties, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person’s business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative Agent’s and/or any Lender’s reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means

that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of a Borrower and/or any Loan Party to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and Issuing Bank, and each Affiliate of any of the foregoing, is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency and whether or not matured) or other amounts at any time held and other obligations (in whatever currency) at any time owing by such Lender or Issuing Bank, or by such an Affiliate, to or for the credit or the account of any Borrower against any of and all the obligations then due of such Borrower now or hereafter existing under this Agreement held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement; provided that such setoff against obligations under this Agreement shall not apply in the case of amounts owed under any Receivables subject to a Permitted Receivables Facility by a Lender, Issuing Bank, or any of its Affiliates. The rights of each Lender and Issuing Bank, and each Affiliate of any of the foregoing, under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, Issuing Bank or Affiliate may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) This Agreement (including this Section 9.09 (*Governing Law; Jurisdiction; Consent to Service of Process*)) shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any Federal court of the United States of America or any court of the State of New York, in each case, sitting in New York County, and any appellate court from any thereof, in any action, suit, proceedings, claims and counterclaims arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined, exclusively in such Federal court or, in the event such Federal court lacks subject matter jurisdiction, such state court. Each of the parties hereto agrees that a final judgment in any such action, suit, proceeding, claim or counterclaim shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Arranger, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this



Agreement or any other Loan Document against any Loan Party or any of its properties in the courts of any jurisdiction.

(c) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action, proceeding, claim or counterclaim arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action, proceeding, claim or counterclaim in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(e) Each Foreign Borrower hereby irrevocably designates and appoints CT Corporation System, National Corporate Research, Ltd., Corporation Services Company or another nationally recognized service firm as its authorized agent, to accept and acknowledge on its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in paragraph (b) of this Section in any Federal or New York State court sitting in the County of New York. Each Foreign Borrower represents and warrants that such agent has agreed in writing to accept such appointment and that a true copy of such designation and acceptance has been delivered to the Administrative Agent. If such agent shall cease so to act, each Foreign Borrower covenants and agrees to designate irrevocably and appoint without delay another such agent satisfactory to the Administrative Agent and to deliver promptly to the Administrative Agent evidence in writing of such other agent's acceptance of such appointment.

**SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Arrangers, the Lenders and the Issuing Banks agrees to maintain the confidentiality of, and not disclose, the Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other agents and advisors, it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential, (b) to the extent requested by any governmental or regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section 9.12 and in accordance with the standard processes of the Administrative Agent, the Arrangers or any Lender, as applicable, or customary market standards for the dissemination of such type of information (which shall be deemed to include those required to be made in order to obtain access to information posted on IntraLinks, SyndTrak, DebtDomain or any similar website), in each case, that requires “click through” or other affirmative consent and acknowledgement to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (in each case, that is an Eligible Assignee) or (ii) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Company or any Subsidiary and its obligations, (g) with the consent of the Company, (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.12 or as a result of any improper disclosure by the Administrative Agent, any Arranger or any Lender or any of their respective Affiliates or their and their Affiliates’ respective Related Parties or (ii) becomes available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis from a source other than the Company and that is not known by the Administrative Agent, any Arranger, any Lender or any Affiliate of any of the foregoing to have provided, and that none of the Administrative Agent, Arrangers, Lenders or any of the Affiliates of the foregoing has reasonable grounds to believe that such source has provided, such Information in a breach of any confidentiality obligation to the Borrower. For purposes of this Section 9.12, “Information” means all information received from the Company relating to the Company or any Subsidiary or their businesses, other than (A) any such information that is available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis prior to disclosure by the Company and (B) information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Company after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the “Charges”), shall exceed the maximum lawful rate (the “Maximum Rate”) that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate, and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section 9.13 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.14. Release of Liens and Guarantees. (a) A Subsidiary Loan Party shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by such Subsidiary Loan Party shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Loan Party ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. Upon any sale or other transfer by any Loan Party (other than to the Company or any Domestic Subsidiary that is not a CFC Holdco) of any Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any Collateral pursuant to Section 9.02, the security interests in such Collateral created by the Security Documents shall be automatically released.

(b) On the Release Date, the Liens on the Collateral under the Security Documents will automatically terminate and be deemed to have been released (it being understood that no such termination or release will modify or otherwise affect any Guarantee provided by any Loan Party under the Collateral Agreement).

(c) In connection with any termination or release pursuant to this Section, the Administrative Agent shall execute and deliver to any Loan Party, at such Loan Party’s expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(d) The Administrative Agent shall be deemed to have automatically released any Lien on any property granted to or held by it under the Collateral Agreement or any other Loan Document that is sold or distributed or to be sold or distributed as part of or in connection with any sale permitted hereunder and under each other Loan Document. The Administrative Agent shall, at the expense of the applicable Loan Party, execute and deliver to such Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of

collateral from the assignment and security interest granted under the Collateral Agreement or other Loan Document.

(e) On the Effective Date, the Administrative Agent will release Radiant Payment Services, LLC from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by Radiant Payment Services, LLC shall be released. The Administrative Agent shall execute and deliver to Radiant Payment Services, LLC, at the Company's expense, all documents that the Company shall reasonably request to evidence the release of Radiant Payment Services, LLC.

SECTION 9.15. Satisfaction of Collateral and Guarantee Requirement. If the Company fails to maintain its Investment Grade Rating at any time following the Investment Grade Date, then the Company shall deliver written notice thereof to the Administrative Agent. As promptly as practicable following the Non-Investment Grade Date, and in any event no later than 30 days thereafter (such date, the "Delivery Date"), the Company shall cause the Collateral and Guarantee Requirement to be satisfied and shall deliver to the Administrative Agent a completed Perfection Certificate dated the Delivery Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company, the Foreign Borrowers and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered at least five Business Days prior to the Delivery Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will on the Delivery Date be released; provided that if, notwithstanding the use by the Company of commercially reasonable efforts without undue burden or expense to cause the Collateral and Guarantee Requirement to be satisfied on the Delivery Date, the requirements thereof are not fully satisfied as of the Delivery Date, the satisfaction of such requirements shall not be a condition to the availability of any Loans hereunder so long as the Company has agreed in a written instrument to satisfy any remaining requirements by a date agreed to by the Administrative Agent (it being understood that any failure to satisfy the Collateral and Guarantee Requirement by such later date will constitute, except to the extent additional time is agreed to by the Administrative Agent in accordance with the definition of "Collateral and Guarantee Requirement", an Event of Default under paragraph (d) of Article VII).

SECTION 9.16. Certain Notices. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

SECTION 9.17. No Fiduciary Relationship. The Company, on behalf of itself and its subsidiaries, agrees that in connection with all aspects of the transactions contemplated

hereby and any communications in connection therewith, the Company, the Subsidiaries and their Affiliates, on the one hand, and the Administrative Agent, the Lenders, the Issuing Banks and their Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Lenders, the Issuing Banks or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, the Arrangers, the Lenders, the Issuing Banks and their Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Company and its Affiliates, and none of the Administrative Agent, the Arrangers, the Lenders, the Issuing Banks or their Affiliates has any obligation to disclose any of such interests to the Company or any of its Affiliates.

SECTION 9.18. Non-Public Information. (a) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by the Company or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain MNPI. Each Lender represents to the Company and the Administrative Agent that (i) it has developed compliance procedures regarding the use of MNPI and that it will handle MNPI in accordance with such procedures and applicable law, including Federal, state and foreign securities laws, and (ii) it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain MNPI in accordance with its compliance procedures and applicable law, including Federal, state and foreign securities laws.

(b) The Company, and each Lender acknowledge that, if information furnished by the Company pursuant to or in connection with this Agreement is being distributed by the Administrative Agent through the Platform, (i) the Administrative Agent may post any information that the Company has indicated as containing MNPI solely on that portion of the Platform as is designated for Private Side Lender Representatives and (ii) if the Company has not indicated whether any information furnished by it pursuant to or in connection with this Agreement contains MNPI, the Administrative Agent reserves the right to post such information solely on that portion of the Platform as is designated for Private Side Lender Representatives. The Company agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Company that is suitable to be made available to Public Side Lender Representatives, and the Administrative Agent shall be entitled to rely on any such designation by the Company without liability or responsibility for the independent verification thereof.

SECTION 9.19. Conditional Non-Petition Covenant. Each of the Administrative Agent and the Lenders agrees that in the event it or any other Secured Party acquires any Interests in any Receivables Subsidiary (as creditor or otherwise) in connection with the exercise of remedies against the Collateral or otherwise in connection with the enforcement, collection or payment of the Obligations hereunder or under any Security Document, it shall not (including by acting on behalf of any such Secured Party or the Secured Parties generally), until one year and one day after the Third Party Interests of such Receivables Subsidiary have been satisfied in full, institute against such Receivables Subsidiary, or join in any institution against such Receivables Subsidiary of, any bankruptcy, reorganization, arrangement, insolvency, receivership, winding-

up or liquidation proceedings or any similar proceedings under any bankruptcy or insolvency laws of any jurisdiction; provided that the foregoing shall not limit the rights of the Administrative Agent or any Lender to file any claim in or otherwise take any action with respect to any such proceeding that was instituted by another Person that is not one of its Affiliates against a Receivables Subsidiary. The foregoing agreement shall survive any termination of this Agreement.

SECTION 9.20. Acknowledgement and Consent to Bail-In. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among ~~the any such parties hereto~~, each party hereto acknowledges ~~and accepts~~ that any liability of any ~~party hereto to another party hereto~~ Affected Financial Institution arising under or in connection with the any Loan Documents Document may be subject to ~~Bail-In Action by~~ the Write-Down and Conversion Powers of the ~~relevant~~ applicable Resolution Authority and agrees and consents to, and acknowledges and ~~accepts~~ agrees to be bound by ~~the effect of~~:

(a) the application of any Write-Down and Conversion Powers by an 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) ~~(a) the effects of~~ any Bail-In Action in relation to on any such liability, including ~~(without limitation), if applicable:~~

(i) a reduction in full or in part, ~~in the principal amount or outstanding amount due (including any accrued but unpaid interest) in respect or cancellation~~ of any such liability;

(ii) a conversion of all, or ~~part~~ a portion of, ~~any~~ such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to; it or otherwise conferred on it, ~~and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document;~~ and/or

(iii) ~~a cancellation of any such liability; and~~ 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.

~~(b) a variation of any term of any Loan Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.~~

SECTION 9.21. Judgment Currency. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in dollars into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction dollars could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party hereto in respect of any sum due to any other party hereto or any holder of the obligations owing hereunder (the “Applicable Creditor”) shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than the currency in which such sum is stated to be due hereunder (the “Agreement Currency”), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The obligations of the parties contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

SECTION 9.22. Amendment and Restatement of Existing Credit Agreement. (a) This Agreement shall amend and restate the Existing Credit Agreement in its entirety, and all of the terms and provisions hereof shall supersede the terms and conditions thereof.

(b) It is understood and agreed that any notice of termination of commitments under the Existing Credit Agreement is given only with respect to the commitments under the Existing Credit Agreement, and not with respect to the Commitments hereunder, and as of the Effective Date, each Lender identified on Schedule 2.01 has in effect a Commitment in the amount set forth opposite the name of such Lender on such Schedule. Each Lender that is also a lender under the Existing Credit Agreement hereby consents and agrees that no prior notice shall be required under the Existing Credit Agreement with respect to (i) termination of commitments under the Existing Credit Agreement or (ii) prepayment of loans under the Existing Credit Agreement; provided that notice thereof is given on or prior to the Effective Date. The parties hereto hereby agree that no amount shall be payable under Section 2.16 of the Existing Credit Agreement solely as a result of the repayment of any outstanding loan under the Existing Credit Agreement on the Effective Date.

SECTION 9.23. Acknowledgment Regarding Any Supported QFCs. (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Agreements or any other agreement or instrument that is a QFC (such support, “QFC Credit Support” and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States).

(b) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the

transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

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FOURTH AMENDMENT dated as of February 4, 2021 (this "Amendment") to the CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, and (III) that certain Third Amendment, dated as of January 22, 2021) (as amended and in effect prior to the effectiveness of this Amendment, the "Existing Credit Agreement"), among NCR CORPORATION, a Maryland corporation (the "Borrower"), the LENDERS party thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Administrative Agent").

WHEREAS, the Borrower has requested that the Lenders amend the Existing Credit Agreement in the manner set forth below, and the Lenders whose signatures appear below (collectively, the "Consenting Lenders"), are willing to amend the Existing Credit Agreement, on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement (as defined below).

SECTION 2. Amendments to the Existing Credit Agreement.

(a) Effective as of the Fourth Amendment Initial Effective Date (as defined below), the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Existing Credit Agreement, as amended by this Amendment and attached as Exhibit A hereto (the "Amended Credit Agreement"), solely in respect of the definition of the term "Permitted Leverage Ratio".

(b) Effective as of the Fourth Amendment Subsequent Effective Date (as defined below), the Existing Credit Agreement shall be further amended in the form of the Amended Credit Agreement to reflect each additional amendment (indicated textually in the same manner as set forth in clause (a) above) to the Existing Credit Agreement set forth in the Amended Credit Agreement (other than the amendment to the definition of the term "Permitted Leverage Ratio", which shall be effective as of the Fourth Amendment Initial Effective Date in accordance with clause (a) above).

(c) The Exhibits to the Existing Credit Agreement shall not be modified and shall be the Exhibits to the Amended Credit Agreement.

SECTION 3. Representations and Warranties. To induce the other parties hereto to enter into this Amendment, the Borrower hereby represents and warrants to the Administrative Agent and the Consenting Lenders that:

(a) This Amendment has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally, and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) On each of the Fourth Amendment Initial Effective Date and the Fourth Amendment Subsequent Effective Date, and after giving effect to this Amendment, the representations and warranties of each Loan Party set forth in the Amended Credit Agreement (as in effect on such date) and in each other Loan Document are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case, as though made on and as of the Fourth Amendment Initial Effective Date or the Fourth Amendment Subsequent Effective Date, as the case may be, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty is so true and correct on and as of such prior date.

(c) On and as of each of the Fourth Amendment Initial Effective Date and the Fourth Amendment Subsequent Effective Date, no Default or Event of Default has occurred and is continuing.

SECTION 4. Conditions to Fourth Amendment Initial Effective Date. The date on which each of the following conditions precedent is satisfied shall be the "Fourth Amendment Initial Effective Date" and this Agreement and the transactions contemplated to become effective as of such date shall be subject to the satisfaction of such conditions:

(a) The Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Amendment) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Borrower and Lenders constituting a Majority in Interest of the Revolving Lenders.

(b) The Administrative Agent shall have received payment from the Borrower, for the account of each Consenting Lender party to this Amendment on the Fourth Amendment Initial Effective Date, a fee in an amount equal to 0.10% of the aggregate principal amount of such Consenting Lender's Revolving Commitment (whether used or unused) as of the Fourth Amendment Initial Effective Date. Such fees shall be payable in immediately available funds and, once paid, shall not be refundable in whole or in part.

The Administrative Agent shall notify the Borrower and the Revolving Lenders of the Fourth Amendment Initial Effective Date, and such notice shall be conclusive and binding.

SECTION 5. Conditions to Fourth Amendment Subsequent Effective Date. The date on which each of the following conditions precedent is satisfied shall be the "Fourth

Amendment Subsequent Effective Date” and the transactions contemplated to become effective as of such date shall be subject to the satisfaction of such conditions:

(a) The Fourth Amendment Initial Effective Date shall have occurred.

(b) The Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Amendment) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Borrower and Lenders constituting the Required Lenders.

(c) The Administrative Agent shall have received payment from the Borrower, for the account of each Consenting Lender party to this Amendment on the Fourth Amendment Subsequent Effective Date (excluding any Consenting Lender party to this Amendment on the Fourth Amendment Initial Effective Date), a fee in an amount equal to 0.10% of the aggregate principal amount of such Consenting Lender’s Revolving Commitment (whether used or unused) as of the Fourth Amendment Subsequent Effective Date. Such fees shall be payable in immediately available funds and, once paid, shall not be refundable in whole or in part.

The Administrative Agent shall notify the Borrower and the Lenders of the Fourth Amendment Subsequent Effective Date, and such notice shall be conclusive and binding.

SECTION 6. Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Amendment and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of counsel to the Administrative Agent.

SECTION 7. Effect of Amendment. (a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Existing Credit Agreement or any of the other Loan Documents, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle the Borrower to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any of the other Loan Documents in similar or different circumstances.

(b) This Amendment shall constitute a Loan Document for all purposes of the Amended Credit Agreement and each other Loan Document.

SECTION 8. Applicable Law. **THIS AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 9. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an

original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Amendment. The words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to this Amendment shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. “Electronic Signatures” means any electronic symbol or process attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

SECTION 10. Headings. The Section headings used herein are for convenience of reference only, are not part of this Amendment and are not to affect the construction of, or to be taken into consideration in interpreting, this Amendment.

SECTION 11. Incorporation by Reference. The submission to jurisdiction, service of process, venue, judgment currency, waiver of immunity, waiver of jury trial and electronic signature provisions set forth in the Existing Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day and year first above written.

**NCR CORPORATION,**

by

/s/ Timothy Oliver

Name: Timothy Oliver

Title: Chief Financial

Officer

JPMORGAN CHASE BANK, N.A., as Lender and as  
Administrative Agent,

by

/s/ Matthew Cheung

Name: Matthew Cheung

Title: Vice President

Name of Lender: BANK OF AMERICA, N.A.

by

/s/ Kyle Oberkrom  
Name: Kyle  
Oberkrom  
Title: Vice President

Name of Lender: WELLS FARGO BANK, N.A.

by

/s/ Tracy L. Moosbrugger  
Name: Tracy L.  
Moosbrugger  
Title: Managing  
Director

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:  
Title:

by

/s/ Nicholas Hahn  
Name: Nicholas  
Hahn  
Title: Managing  
Director

Name of Lender: TRUIST BANK

Name of Lender: MUFG Bank, Ltd.

by

/s/ Joseph Siri  
Name: Joseph  
Siri  
Title: Vice President

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:  
Title:

Name of Lender: PNC BANK, NATIONAL ASSOCIATION

by

/s/ Andrew Fraser  
Name: Andrew  
Fraser  
Title: Vice President

Name of Lender: ROYAL BANK OF CANADA

by

/s/ Kamran Khan  
Name: Kamran  
Khan  
Title: Authorized  
Signatory

Name of Lender: Capital One, National Association

by

/s/ Timothy A. Ramijanc  
Name: Timothy  
A. Ramijanc  
Title: Duly Authorized  
Signatory

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:  
Title:

by

\_\_\_\_\_  
/s/ Vijay Prasad  
Name: Vijay  
Prasad  
Title: Senior Vice  
President

Name of Lender: TD Bank, N.A.  
For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:  
Title:

Fifth Third Bank, National Association

by

\_\_\_\_\_  
/s/ Dan Komitor  
Name: Dan  
Komitor  
Title: Managing  
Director



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**J.P.Morgan**

**CREDIT AGREEMENT**

dated as of August 22, 2011,

as amended and restated as of July 25, 2013,

as further amended and restated as of March 31, 2016, ~~and~~

as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, and (III) that certain Third Amendment, dated as of January 22, 2021), and

as further amended as of February 4, 2021,

among

NCR CORPORATION,  
as Company,

The FOREIGN BORROWERS Party Hereto,

The LENDERS Party Hereto

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent, Joint Lead Arranger and Joint Bookrunner

---

BOFA SECURITIES, INC.  
WELLS FARGO SECURITIES, llc  
MUFG BANK, LTD.

PNC CAPITAL MARKETS LLC  
RBC Capital Markets  
SUNTRUST ROBINSON HUMPHREY, INC.

and

CAPITAL ONE, NATIONAL ASSOCIATION  
as Joint Lead Arrangers, Joint Bookrunners and Co-Syndication Agents

---

FIFTH THIRD BANK  
CITIGROUP GLOBAL MARKETS INC.  
sANTANDER bank, national association  
TD Securities (USA) LLC

and

UNICREDIT CAPITAL MARKETS LLC

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[[5570073]]

~~1287995.01-NYCSR01A~~1287995.02A-NYCSR01A - MSW

as Co-Documentation Agents and Joint Lead Arrangers and Joint Bookrunners  
in respect of the term loan credit facilities provided for herein

---

ACADEMY SECURITIES, LLC

BB&T CAPITAL MARKETS, A DIVISION OF BB&T SECURITIES LLC

HSB BANK USA, N.A.

KEYBANC CAPITAL MARKETS, INC.

THE NORTHERN TRUST COMPANY

and

STANDARD CHARTERED BANK

as Joint Lead Arrangers and Joint Bookrunners

in respect of the term loan credit facilities provided for herein

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CREDIT AGREEMENT dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016, ~~and~~ as further amended and restated as of August 28, 2019 (as amended by (I) that certain First Amendment, dated as of October 7, 2019, (II) that certain Second Amendment, dated as of April 7, 2020, and (III) that certain Third Amendment, dated as of January 22, 2021), and as further amended as of February 4, 2021 (this “Agreement”), among NCR CORPORATION, ~~as a Maryland corporation (the “Company (as defined below)”~~), the FOREIGN BORROWERS party hereto, the LENDERS party hereto and JPMORGAN CHASE BANK, N.A., as the Administrative Agent.

### **Preliminary statements**

The Company, certain of the Lenders (such term and other capitalized terms used in these preliminary statements being defined in Section 1.01 hereof) and the Administrative Agent are party to the Existing Credit Agreement, and, upon satisfaction of the conditions set forth herein, have agreed, together with the Foreign Borrowers and the other Lenders, to amend and restate the Existing Credit Agreement in the form of this Agreement.

The Lenders have indicated their willingness to lend, and the Issuing Banks have indicated their willingness to issue Letters of Credit, in each case, on the terms and subject to the conditions set forth herein.

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

### **ARTICLE I**

#### **Definitions**

##### **SECTION 1.01. Defined Terms**

As used in this Agreement, the following terms have the meanings specified below:

“ABR”, when used in reference to any Loan or Borrowing, means such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Alternate Base Rate.

“Accepting Lenders” has the meaning set forth in Section 2.21(a).

“Acquired Company Representations” means, with respect to any Limited Condition Acquisition, the representations and warranties made in the acquisition agreement with respect to such Limited Condition Acquisition that are material to the interests of the Lenders, but only to the extent that the Company or any of its Affiliates has the right under such acquisition agreement not to consummate such Limited Condition Acquisition, or to terminate



the obligations of the Company or any of its Affiliates under such acquisition agreement, as a result of a breach of such representations and warranties.

“Adjusted Consolidated Net Income” means, for any period, Consolidated Net Income for such period; provided, however, that there shall not be included in such Adjusted Consolidated Net Income for any such period:

(a) any gain (or loss) realized upon the sale or other disposition of any assets of the Company, its consolidated Subsidiaries or any other Person (including pursuant to any sale-and-leaseback arrangement) which are not sold or otherwise disposed of in the ordinary course of business and any gain (or loss) realized upon the sale or other disposition of any Equity Interest of any Person;

(b) extraordinary gains or losses;

(c) the cumulative effect of a change in accounting principles;

(d) any net after-tax gain (or loss) attributable to the early retirement or conversion of Indebtedness;

(e) amortization of non-cash pension expenses and any after-tax one-time gains or losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains and losses on pension plans and settlement/curtailment gains and losses thereon;

(f) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP;

(g) the effects of adjustments in the Company’s consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to any acquisition that is consummated after September 17, 2012, net of taxes; and

(h) any increase to reserves for Environmental Liabilities except to the extent cash payments are made in respect of such Environmental Liabilities from such increase.

“Adjusted Eurocurrency Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) for any Eurocurrency Borrowing denominated in Dollars, the LIBO Rate for such Interest Period multiplied by the Statutory Reserve Rate, (b) for any Eurocurrency Borrowing denominated in Sterling, the LIBO Rate for such Interest Period, or (c) for any Eurocurrency Borrowing denominated in Euros, the EURIBO Rate for such Interest Period.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent hereunder and under the other Loan Documents (or, as applicable, such

Affiliates thereof as it shall from time to time designate for the purpose of performing its obligations hereunder in such capacity, including J.P. Morgan Europe Limited) and its permitted successors in such capacity as provided in Article VIII.

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

“Affected Class” has the meaning set forth in Section 2.21(a).

“Affiliate” means, with respect to a specified Person, another Person that directly or indirectly through one or more intermediary Controlling Persons Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Revolving Commitment” means the sum of the Revolving Commitments of all the Revolving Lenders.

“Aggregate Revolving Exposure” means the sum of the Revolving Exposures of all the Revolving Lenders.

[“Agreement” has the meaning set forth in the preamble hereto.](#)

“Agreement Currency” has the meaning set forth in Section 9.21(b).

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1.00% per annum and (c) the Adjusted Eurocurrency Rate on such day (or, if such day is not a Business Day, the immediately preceding Business Day) for a deposit in Dollars with a maturity of one month plus 1.00% per annum. For purposes of clause (c) above, the Adjusted Eurocurrency Rate for any day shall be based on the applicable Screen Rate (or, if the applicable Screen Rate is not available for such one-month maturity, the Interpolated Screen Rate, if available) at approximately 11:00 a.m., London time, on such day for deposits in Dollars with a maturity of one month. Notwithstanding the foregoing, if the Alternate Base Rate, determined as provided above, would otherwise be less than zero, then the Alternate Base Rate shall be deemed to be zero for all purposes of this Agreement. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Eurocurrency Rate, as the case may be. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.13, then the Alternate Base Rate shall be the greater of the rates referred to in clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Company or any of its Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

“Applicable Creditor” has the meaning set forth in Section 9.21(b).

“Applicable Percentage” means, at any time, with respect to any Revolving Lender, the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at such time, subject to adjustment as required to give effect to any reallocation of LC Exposure made pursuant to paragraph (c) or (d) of Section 2.19 or the penultimate paragraph of Section 2.19. If the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments and to any Revolving Lender’s status as a Defaulting Lender at the time of determination.

“Applicable Rate” means, for any day, (a) with respect to any Term Loan, (i) 1.50% per annum, in the case of an ABR Loan, or (ii) 2.50% per annum, in the case of a Eurocurrency Loan, (b) with respect to any Incremental Term Loan of any Series, the rate per annum specified in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series and (c) with respect to any Revolving Loan that is an ABR Loan or a Eurocurrency Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, respectively, the applicable rate per annum set forth below under the caption “ABR Spread”, “Eurocurrency Spread” or “Commitment Fee Rate”, respectively, based upon the Leverage Ratio as of the end of the fiscal quarter of the Company for which consolidated financial statements have theretofore been most recently delivered pursuant to Sections 5.01(a) or 5.01(b) of this Agreement; provided that from the Effective Date until delivery of the consolidated financial statements pursuant to Section 5.01(b) for the fiscal quarter ended September 30, 2019, the Applicable Rate in respect of any Revolving Loan, or with respect to the commitment fees payable in respect of the Revolving Commitments hereunder, shall be determined by reference to Level III:

Level	Leverage Ratio	ABR Spread	Eurocurrency Spread	Commitment Fee Rate
I	Less than 1.50 to 1.0	0.25%	1.25%	0.150%
II	Greater than or equal to 1.50 to 1.0, but less than 2.00 to 1.0	0.50%	1.50%	0.200%
III	Greater than or equal to 2.00 to 1.0, but less than 3.00 to 1.0	0.75%	1.75%	0.250%
IV	Greater than or equal to 3.00 to 1.0, but less than 3.50 to 1.0	1.00%	2.00%	0.300%
V	Greater than or equal to 3.50 to 1.0	1.25%	2.25%	0.350%

For purposes of the foregoing, each change in the Applicable Rate resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the Business Day following the date of delivery to the Administrative Agent pursuant to

Sections 5.01(a) or 5.01(b) of the consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change. Notwithstanding the foregoing, the Applicable Rate shall be based on the rates per annum set forth in Category V if the Company fails to deliver the consolidated financial statements required to be delivered pursuant to Sections 5.01(a) or 5.01(b) or any Compliance Certificate required to be delivered pursuant hereto, in each case within the time periods specified herein for such delivery, during the period commencing on and including the day of the occurrence of a Default resulting from such failure and until the delivery thereof. Notwithstanding anything to the contrary in this definition, the determination of the Applicable Rate will be subject to the provisions of Section 2.12(f).

“Applicable Ticking Fee Rate” means, (i) at any time on or prior to the date that is 30 days after the Effective Date, a rate per annum equal to 0.00%, (ii) at any time after the date that is 30 days after the Effective Date and on or prior to the date that is 60 days after the Effective Date, a rate per annum equal to 50% of the Applicable Rate for Term Loans that are Eurocurrency Loans and (iii) at any time after the date that is 60 days after the Effective Date, a rate per annum equal to the Applicable Rate for Term Loans that are Eurocurrency Loans.

“Applicant Borrower” has the meaning set forth in Section 2.23(a).

“Applicant Borrower Amendments” has the meaning set forth in Section 2.23(a).

“Approved Commercial Bank” means a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000.

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

“Arrangers” means BofA Securities, Inc., J.P. Morgan Chase Bank, N.A., Wells Fargo Securities, LLC, MUFG Bank, Ltd., PNC Bank, National Association, RBC Capital Markets, Suntrust Robinson Humphrey, Inc. and Capital One, National Association, in their capacities as joint lead arrangers and joint bookrunners for the credit facilities provided for herein.

“Article 55 BRRD” means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee, with the consent of any Person whose consent is required by Section 9.04, and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

“Available Amount” means, as of any day, the excess, if any, of:

(a) the sum of (i) \$50,000,000, plus (ii) 50% of cumulative Adjusted Consolidated Net Income from July 1, 2012; over

(b) the amount of all Restricted Payments made in reliance on Section 6.08(a)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(a)(vi) of this Agreement and all payments made in reliance on Section 6.08(b)(vi) of the Existing Credit Agreement prior to the Effective Date (or on the corresponding provision in the Existing Credit Agreement (as defined in the Existing Credit Agreement)) or Section 6.08(b)(vi) of this Agreement.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers.

“Bail-In Legislation” means:

(a) with respect to any EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and

(b) in relation to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy”.

“Bankruptcy Event” means, with respect to any Person, that such Person has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, examiner, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority, so long as such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any agreements made by such Person.

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

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

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

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

“Blocking Regulation” means Regulation (EU) No 2271/96 of the European Parliament and of the Council of 22 November 1996 protecting against the effects of the extraterritorial application of legislation adopted by a third country, and actions based on or resulting therefrom.

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

“Borrower” means each of the Company and each Foreign Borrower.

“Borrower Agent” has the meaning set forth in Section 1.07.

“Borrowing” means Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” means (a) in the case of a Borrowing denominated in Dollars, \$5,000,000, (b) in the case of a Borrowing denominated in Euros, €5,000,000, and (c) in the case of a Borrowing denominated in Sterling, £5,000,000.

“Borrowing Multiple” means (a) in the case of a Borrowing denominated in Dollars, \$1,000,000, (b) in the case of a Borrowing denominated in Euros, €1,000,000, and (c) in the case of a Borrowing denominated in Sterling, £1,000,000.

“Borrowing Request” means a written request by a Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit B or any other form approved by the Administrative Agent.

“Brazil CMA” means the Contract Manufacturing Agreement dated as of July 26, 2011, by and between NCR Global Solutions Group, Limited, an Irish limited company, and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Shareholders’ Agreement” means the Shareholders’ Agreement dated as of October 4, 2011, by and among the Company, NCR Manaus, Scopus Industrial and Scopus Tecnologia, including the schedules and exhibits thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Subscription Agreement” means the Equity Subscription Agreement dated as of July 26, 2011, by and among the Company, Scopus Industrial, Scopus Tecnologia and NCR Manaus, including the schedules thereto, as provided to the Administrative Agent prior to the Original Effective Date.

“Brazil Transaction Documents” means the Brazil CMA, the Brazil Shareholders’ Agreement and the Brazil Subscription Agreement.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, (a) when used in connection with a Eurocurrency Loan in any currency, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in such currency in the London interbank market or not open for general business in London, and (b) when used in connection with any date for the payment or purchase of Euros, the term “Business Day” shall also exclude any day on which TARGET2 is not open for the settlement of payments in Euro or banks are not open for general business in London.

“Capital Expenditures” means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of the Company and its consolidated Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of the Company and its consolidated Subsidiaries for such period prepared in accordance with GAAP, excluding (i) any such expenditures made to restore, replace or rebuild assets to the condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, condemnation or similar proceeding, (ii) any such expenditures constituting Permitted Acquisitions or any other acquisition of all the Equity Interests in, or all or substantially all the assets of (or the assets constituting a business unit, division, product line or line of business of), any Person and (iii) any such expenditures in the form of a substantially contemporaneous exchange of similar property, plant, equipment or other capital assets, except to the extent of cash or other consideration (other than the assets so exchanged), if any, paid or payable by the Company or its consolidated Subsidiaries and (b) such portion of principal payments on Capital Lease Obligations made by the Company or any of its Subsidiaries during such period as is attributable to additions to property, plant and equipment that have not otherwise been reflected on the consolidated statement of cash flows as additions to property, plant and equipment for such period.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person; subject to Section 1.04, the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. For purposes of Section 6.02, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Cash Consideration” has the meaning set forth in Section 6.05.

“CFC” means (a) each Person that is a “controlled foreign corporation” for purposes of the Code, (b) each subsidiary of any such controlled foreign corporation, (c) any Foreign Subsidiary which is an entity disregarded as separate from its owner under Treasury Regulation 301.7701-3 and (d) any CFC Holdco.

“CFC Holdco” means a Subsidiary that has no material assets other than Equity Interests in one or more CFCs (including for this purpose, any debt or other instrument treated as equity for U.S. Federal income tax purposes), any Indebtedness owed to it (or so treated for U.S. Federal income tax purposes) by any CFC and rights to Intellectual Property relating solely to and utilized solely by such CFCs (but in respect of which no significant royalty, license or similar fees are paid by such CFCs) and assets incidental thereto.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the Effective Date), other than an employee benefit plan or related trust of the Company or of the Company and any Subsidiaries, of Equity Interests in the Company representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Company; (b) persons who were (i) directors of the Company on the Effective Date, (ii) nominated or approved by the board of directors of the Company, (iii) nominated or approved by the board of directors of the Company as director candidates prior to their election to the board of directors of the Company or (iv) appointed by directors who were directors of the Company on the Effective Date or were nominated or approved as provided in clause (ii) or clause (iii) above ceasing to occupy a majority of the seats (excluding vacant seats) on the board of directors of the Company; or (c) the occurrence of any “change in control” (or similar event, however denominated) with respect to the Company under and as defined in any indenture or other agreement or instrument evidencing, governing the rights of the holders of or otherwise relating to any Material Indebtedness of the Company or under and as defined in the Existing Preferred Documentation.

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued 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, implemented or issued.

“Charges” has the meaning set forth in Section 9.13.



“Class”, when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Term Loans, Incremental Term Loans of any Series or Revolving Loans, (b) any Commitment, refers to whether such Commitment is an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or a Revolving Commitment and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class. From and after the funding of the Delayed Draw Term Loans, if any, the Delayed Draw Term Loans and the Initial Term Loans shall constitute a single Class of Term Loans.

“Code” means the Internal Revenue Code of 1986.

“Collateral” means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Security Documents as security for the Obligations; provided that the Collateral shall in no event include any Excluded Assets.

“Collateral Agreement” means the Amended and Restated Guarantee and Collateral Agreement among the Borrowers, the other Loan Parties and the Administrative Agent, as amended and restated as of March 31, 2016.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Administrative Agent shall have received from each Borrower and each Designated Subsidiary either (i) a counterpart of the Collateral Agreement duly executed and delivered on behalf of such Person or (ii) in the case of any Person that becomes a Designated Subsidiary after the Effective Date (including by ceasing to be an Excluded Subsidiary), a supplement to the Collateral Agreement, in substantially the form specified therein, duly executed and delivered on behalf of such Person, together with documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01 with respect to such Designated Subsidiary, in each case, if reasonably requested by the Administrative Agent;

(b) all Equity Interests in any Subsidiary owned by or on behalf of any Guarantor Loan Party shall have been pledged pursuant to the Collateral Agreement and, in the case of Equity Interests in any Foreign Subsidiary, where the Administrative Agent so requests in connection with the pledge of such Equity Interests, a Foreign Pledge Agreement (provided that, in each case, the Guarantor Loan Parties shall not be required to pledge 66 $\frac{2}{3}$ % or more of the outstanding voting Equity Interests in any CFC), and the Administrative Agent shall, to the extent required by the Collateral Agreement, have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank;

(c)(i) all Indebtedness of the Company and each Subsidiary and (ii) all Indebtedness (other than Permitted Investments in non-certificated or book entry form) of any other Person in a principal amount of \$10,000,000 or more that, in each case, is

owing to any Guarantor Loan Party shall be evidenced by a promissory note (in each case, which may take the form of an intercompany note) and shall have been pledged pursuant to the Collateral Agreement, and the Administrative Agent shall have received all such promissory notes, together with undated instruments of transfer with respect thereto endorsed in blank;

(d) all documents and instruments, including Uniform Commercial Code financing statements, required by Requirements of Law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the term “Collateral and Guarantee Requirement”, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording (or the Administrative Agent shall have been authorized to make such filing, registration or recording); and

(e) each Loan Party shall have obtained all consents and approvals required to be obtained by it at such time in connection with the execution and delivery of all Security Documents to which it is a party, the performance of its obligations thereunder and the granting by it of the Liens thereunder.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) the foregoing provisions of this definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of legal opinions or other deliverables with respect to, particular assets of the Guarantor Loan Parties, or the provision of Guarantees by any Subsidiary, if, and for so long as the Administrative Agent and the Company reasonably agree that the cost of creating or perfecting such pledges or security interests in such assets, or obtaining such legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any adverse tax consequences to the Company and the Subsidiaries, including any potential Section 956 Impact), shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (b) Liens required to be granted from time to time pursuant to the term “Collateral and Guarantee Requirement” shall be subject to exceptions and limitations set forth in the Security Documents and, to the extent appropriate in the applicable jurisdiction, as reasonably agreed between the Administrative Agent and the Company and (c) in no event shall the Collateral include any Excluded Assets. The Administrative Agent may grant extensions of time for the creation and perfection of security interests in, or the obtaining of, any applicable legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Subsidiary (including, without limitation, extensions beyond the Effective Date, as required pursuant to Section 5.14 or in connection with assets acquired, or Subsidiaries formed or acquired, after the Effective Date) where it determines that such action cannot be accomplished, or undue effort or expense would be required to accomplish such action, by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents. Any such extensions granted by the Administrative Agent under the Existing Credit Agreement will continue to be effective in accordance with the terms thereof for purposes hereof.

“Commitment” means a Revolving Commitment, an Initial Term Commitment, a Delayed Draw Term Commitment, an Incremental Term Commitment of any Series or any combination thereof (as the context requires).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein that is distributed to the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to Section 9.01, including through the Platform.

“Company” ~~means NCR Corporation, a Maryland corporation~~ has the meaning set forth in the preamble hereto.

“Compliance Certificate” means a Compliance Certificate substantially in the form of Exhibit E or any other form approved by the Administrative Agent.

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period, plus

(a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of

(i) consolidated interest expense for such period (including imputed interest expense in respect of Capital Lease Obligations);

(ii) provision for taxes based on income, profits or losses, including foreign withholding taxes during such period;

(iii) all amounts attributable to depreciation and amortization for such period;

(iv) any extraordinary losses for such period, determined on a consolidated basis in accordance with GAAP;

(v) any Non-Cash Charges for such period;

(vi) any losses attributable to early extinguishment of Indebtedness or obligations under any Hedging Agreement other than those relating to foreign currencies;

(vii) Pro Forma Adjustments in connection with Material Acquisitions;

(viii) nonrecurring integration expenses in connection with acquisitions (including severance costs, retention payments, change of control bonuses, relocation expenses and similar integration expenses);

(ix) one-time out-of-pocket transactional costs and expenses relating to Permitted Acquisitions, Investments outside the ordinary course of business, and

Dispositions (regardless of whether consummated), including legal fees, advisory fees, and upfront financing fees;

(x) amortization of non-cash pension expenses and any after-tax one-time losses associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market losses on pension plans and settlement/curtailment losses thereon;

(xi) out-of-pocket costs and expenses relating to restructurings (including a reduction in force), consolidation, separation or closure of facilities and cost saving initiatives, in each case, undertaken out of the ordinary course of business, and (without duplication) any non-cash charges or reserves taken in connection therewith; provided that each such restructuring, consolidation, separation or closure of facilities or cost saving initiative has been specifically approved by the board of directors of the Company or by both the chief executive officer and the chief financial officer of the Company;

(xii) out-of-pocket costs and expenses arising from litigation in respect of discontinued operations in an amount not to exceed \$15,000,000 for any Test Period; and

(xiii) unrealized losses during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided that any cash payment made with respect to any Non-Cash Charges added back in computing Consolidated EBITDA for any prior period pursuant to clause (a)(v) above (or that would have been added back had this Agreement been in effect during and after such prior period), other than any cash payments made after the Effective Date in respect of obligations relating to the Fox River, Kalamazoo and Dayton landfill discontinued operations not exceeding, in the aggregate for all periods, the amount of the reserves for such obligations reflected in the Borrower’s financial statements for the fiscal quarter ending June 30, 2011, shall be subtracted in computing Consolidated EBITDA for the period in which such cash payment is made; provided, further, that the aggregate amount of all amounts under clauses (vii), (viii), (ix) and (xi) that increase Consolidated EBITDA in any Test Period (including, for avoidance of doubt, in connection with any calculation made hereunder on a Pro Forma Basis) shall not exceed, and shall be limited to, 15% of Consolidated EBITDA in respect of such Test Period (calculated after giving effect to such adjustments and with no carryover of unused amounts into any subsequent period); and minus

(b) without duplication and to the extent included in determining such Consolidated Net Income,

(i) any extraordinary gains for such period, determined on a consolidated basis in accordance with GAAP;

(ii) any non-cash gains for such period, including any gains attributable to the early extinguishment of Indebtedness;

(iii) any net income tax benefit for such period determined on a consolidated basis in accordance with GAAP;

(iv) any gains attributable to the early extinguishment of obligations under any Hedging Agreement other than those relating to foreign currencies;

(v) after-tax one-time gains associated with lump sum payments (or transfers of financial assets) to defease pension and retirement obligations and after-tax mark-to-market gains on pension plans and settlement/curtailment gains thereon; and

(vi) unrealized gains during such period attributable to the application of “mark-to-market” accounting in respect of any Hedging Agreement;

provided, further that Consolidated EBITDA for any period shall be calculated so as to exclude (without duplication of any adjustment referred to above) the effect of:

(A) the cumulative effect of any changes in GAAP or accounting principles applied by management; and

(B) purchase accounting adjustments.

Notwithstanding the foregoing (but without duplication of any other adjustment referred to above), Consolidated EBITDA will be calculated (i) so as to exclude mark-to-market gains and losses on Plans and Foreign Pension Plans and settlement/curtailment gains and losses relating to such plans, and (ii) to give effect to Mark-to-Market Pension Accounting.

“Consolidated Net Income” means, for any period, the net income or loss of the Company and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income of any Person (other than the Company) that is not a consolidated Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Company or, subject to clauses (b) and (c) below, any other consolidated Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary (other than the Company or any Subsidiary Loan Party) to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Subsidiary (i) is not permitted (A) without any prior approval of any Governmental Authority which, to the actual knowledge of the Company, would be required and that has not been obtained or (B) under any law applicable to the Company or any such Subsidiary (in the case of any foreign law, of which the Company has actual knowledge) or (ii) is not permitted by the operation of the terms of the organizational documents of such Subsidiary or any agreement or other instrument binding upon the Company or any Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions has been legally and effectively waived and (c) the income or loss of, and any amounts referred to in clause (a) above paid to, any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Subsidiary.

“Consolidated Total Assets” means, as of the last day of any fiscal quarter of the Company, total assets as reflected on the consolidated balance sheet of the Company and the Subsidiaries, determined on a consolidated basis in accordance with GAAP.

“Consolidated Total Debt” means, as of any date, without duplication, (a) the aggregate principal amount of Indebtedness of the Company and the Subsidiaries (other than Indebtedness described in clause (f) of “Indebtedness”; provided that there shall be included in Consolidated Total Debt any Indebtedness in respect of drawings under letters of credit or letters of guaranty to the extent such drawings are not reimbursed within two Business Days after the date of any such drawing) outstanding as of such date, to the extent such Indebtedness would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP, plus (b) without duplication of amounts referred to in clause (a), the amount of Third Party Interests in respect of Permitted Receivables Facilities, in each case, without giving effect to any election to value any Indebtedness at “fair value”, as described in Section 1.04(a), or any other accounting principle that results in the amount of any such Indebtedness (other than zero coupon Indebtedness) to be below the stated principal amount of such Indebtedness, minus (c) the excess, if any, of the amount of Unrestricted Cash owned by the Company and its consolidated Subsidiaries as of such date over \$150,000,000; provided that, solely for the purposes of determining compliance by the Company with the Leverage Ratio set forth in Section 6.12 as of the last day of any Test Period, Consolidated Total Debt shall exclude any outstanding Notes issued in connection with a Permitted Material Acquisition if (i) such Permitted Material Acquisition has not been consummated on or before the last day of such Test Period and (ii) such Notes are secured on the last day of such Test Period by a Lien on the Permitted Escrow Funds with respect to such Notes (and any earnings thereon) having a value at least equal to the principal amount of such Notes, in accordance with the Permitted Escrow Transactions with respect to such Notes. Notwithstanding anything to the contrary herein, Consolidated Total Debt will exclude any Indebtedness (“Refinanced Debt”) outstanding on any determination date which is to be refinanced, repurchased or purchased, redeemed or otherwise repaid pursuant to a refinancing permitted transaction not prohibited under this Agreement ~~with the proceeds (the “Refinancing Proceeds”) of previously incurred refinancing Indebtedness that is included in Consolidated Total Debt on such date (and such Refinancing Proceeds)~~ (and any amounts to be used to effect such refinancing, repurchase, purchase, redemption or repayment shall not be included as Unrestricted Cash for purposes of this Agreement); provided that a notice of redemption of, or an offer to purchase, such Refinanced Debt has been given or made (and, in the case of an offer to purchase, not withdrawn) on or prior to such date (any such Refinanced Debt, “Defeased Debt”).

“Consolidated Total Secured Debt” means, as of any date, the aggregate principal amount of Consolidated Total Debt of the Company and the Subsidiaries outstanding as of such date that is secured by Liens on any property or assets of the Company or the Subsidiaries (which shall be determined after giving effect to clause (c) of the definition of Consolidated Total Debt).

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of

voting securities, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

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

“Covered Party” has the meaning set forth in Section 9.23.

“Credit Party” means the Administrative Agent, each Issuing Bank and each Lender.

“CRR” means the Council Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 48/2012.

“Cumulative Leverage Ratio Increase Amount” means the sum of the Leverage Ratio Increase Amounts in respect of Pension Funding Indebtedness; provided that the Cumulative Leverage Ratio Increase Amount may not exceed 0.50; provided, further, that if any Indebtedness, including of term loans made under the Existing Credit Agreement (or any other prior credit agreement), is treated by the Company as Pension Funding Indebtedness when incurred, but the proceeds thereof are not applied as required by the definition of “Pension Funding Indebtedness” (including within the applicable time periods specified therein) to qualify as Pension Funding Indebtedness, on and as of the last day of the period during which such proceeds would have to be so applied, such Indebtedness will cease to be Pension Funding Indebtedness, any Leverage Ratio Increase Amounts previously attributable thereto will cease to apply, the Cumulative Leverage Ratio Increase Amount will be recalculated in accordance with the foregoing definition without regard to any such Leverage Ratio Increase Amounts and such recalculated Cumulative Leverage Ratio Increase Amount will apply from and after such day (subject to future adjustment based on subsequent issuances of Pension Funding Indebtedness).

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

“Defaulting Lender” means, subject to Section 2.19, any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, (i) to fund any portion of its Loans, (ii) to fund any portion of its participations in Letters of Credit or (iii) to pay to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) has notified the Company or any Credit Party in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good-faith determination that a condition precedent

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

“Defeased Debt” has the meaning given to such term in the definition of “Consolidated Total Debt”.

“Delayed Draw Funding Date” means the date on which the Delayed Draw Term Loans are funded pursuant to clause (b) of Section 2.01.

“Delayed Draw Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make a Delayed Draw Term Loan at any time on or after the Effective Date and on or prior to December 31, 2019, expressed as an amount representing the maximum principal amount of the Delayed Draw Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Delayed Draw Term Commitment is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Delayed Draw Term Commitment, as applicable. The aggregate amount of the Lenders' Delayed Draw Term Commitments as of the Effective Date is \$400,000,000.

“Delayed Draw Term Lender” means a Lender with a Delayed Draw Term Commitment or an outstanding Delayed Draw Term Loan.



“Delayed Draw Term Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Delivery Date” has the meaning set forth in Section 9.15.

“Designated Subsidiary” means each Material Subsidiary that is not an Excluded Subsidiary.

“Designated Non-Cash Consideration” means the fair market value of non-cash consideration received by the Company or a Subsidiary in connection with a disposition pursuant to Section 6.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Financial Officer of the Company, setting forth the basis of such valuation (the outstanding amount of which will be reduced by the fair market value of the portion of the non-cash consideration converted to cash or Permitted Investments within 180 days following the consummation of such disposition).

“Disclosed Matters” means the actions, suits, proceedings and the environmental, Intellectual Property and other matters disclosed in Schedule 3.06.

“Disposition” has the meaning set forth in Section 6.05.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a)matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b)is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c)is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by the Company or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date 180 days after the latest Maturity Date (determined as of the date of issuance thereof or, in the case of any such Equity Interests outstanding on the Effective Date, the Effective Date); provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an

“asset sale” or a “change of control” (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable, the cancellation or expiration of all Letters of Credit and the termination or expiration of the Commitments, (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability and (iii) the Existing Preferred shall not constitute Disqualified Equity Interests.

“Dollar Equivalent” means, on any date, (a) with respect to any amount in Dollars, such amount, and (b) with respect to any amount in Euros or Sterling, the equivalent in Dollars of such amount, determined by the Administrative Agent using the Exchange Rate with respect to Euros or Sterling, as the case may be, in effect for such amount on such date. The Dollar Equivalent at any time of the amount of any Letter of Credit, LC Disbursement or Loan denominated in Euros or Sterling shall be the amount most recently determined as provided in Section 1.06.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary” means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Dutch Borrower” means any Borrower (i) that is organized or formed under the laws of the Netherlands or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the Netherlands.

“Dutch Non-Public Lender” means: (a) until the publication of an interpretation of “public” as referred to in the CRR by the competent authority/ies: an entity which (i) assumes existing rights and/or obligations vis-à-vis the Company, the value of which is at least EUR 100,000 (or its equivalent in another currency), (ii) provides repayable funds for an initial amount of at least EUR 100,000 (or its equivalent in another currency) or (iii) otherwise qualifies as not forming part of the public; and (b) as soon as the interpretation of the term “public” as referred to in the CRR has been published by the relevant authority/ies: an entity which is not considered to form part of the public on the basis of such interpretation.

“Economic IP Transfer” means a transfer of economic interests in Intellectual Property between or among the Company and any of its Subsidiaries that is not accompanied by a transfer of legal ownership of such Intellectual Property.

“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 clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any member state 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 on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02), which date is August 28, 2019.

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

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, (d) any bank and (e) any other financial institution or investment fund engaged as a primary activity in the ordinary course of its business in making or investing in commercial loans or debt securities, other than, in each case, a natural person, the Company, any Subsidiary or any other Affiliate of the Company.

“Engagement Letter” means the Engagement Letter dated July 30, 2019, among the Company, JPMorgan Chase Bank, N.A., BofA Securities, Inc. and Wells Fargo Securities, LLC.

“Environmental Laws” means all rules, regulations, codes, ordinances, judgments, orders, decrees and other laws, and all injunctions, notices or binding agreements, issued, promulgated or entered into by any Governmental Authority and relating in any way to the environment, to preservation or reclamation of natural resources, to the management, Release or threatened Release of any Hazardous Material or to related health or safety matters.

“Environmental Liability” means any liability, obligation, loss, claim, action, order or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties and indemnities), directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests, beneficial interests or other ownership interests, whether voting or nonvoting, in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

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

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30day notice period is waived), (b) any failure by any Plan to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, in each case whether or not waived, (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) a determination that any Plan is, or is expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code), (e) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, (f) the receipt by the Company or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan, (g) the incurrence by the Company or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan, (h) the receipt by the Company or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Company or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA, or in endangered or critical status, within the meaning of Section 305 of ERISA and Section 432 of the Code, or (i) any Foreign Benefit Event.

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

“EURIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in Euros for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the EURIBO Rate shall be the Interpolated Screen Rate with respect to Euros as of the Specified Time on the Quotation Day; and provided, further, that if the EURIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Euro” or “€” means the single currency adopted by participating member states of the European Union in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Eurocurrency”, when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Adjusted Eurocurrency Rate.

“Event of Default” has the meaning set forth in Article VII.

“Excess Cash Flow” means, for any fiscal year of the Company, the sum (without duplication) of:

(a) the consolidated net income (or loss) of the Company and its consolidated Subsidiaries for such fiscal year, adjusted to exclude (i) net income (or loss) of any consolidated Subsidiary that is not wholly owned by the Company to the extent such income or loss is attributable to the non-controlling interest in such consolidated Subsidiary and (ii) any gains or losses attributable to Prepayment Events; plus

(b) depreciation, amortization and other non-cash charges or losses deducted in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash charge to the extent it represents an accrual or reserve for potential cash charges in any future period or amortization of prepaid cash charges that were paid in a prior period); plus

(c) the sum of (i) the amount, if any, by which Net Working Capital decreased during such fiscal year (except as a result of the reclassification of items from short-term to long-term or vice-versa), (ii) the net amount, if any, by which the consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries increased during such fiscal year and (iii) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year; minus

(d) the sum of (i) any non-cash gains included in determining such consolidated net income (or loss) for such fiscal year (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash charge that reduced consolidated net income of the Company and its consolidated Subsidiaries in any prior period if Excess Cash Flow was not increased by the amount of the corresponding non-cash charge in such prior period), (ii) the amount, if any, by which Net Working Capital increased during such fiscal year (except as a result of the reclassification of items from long-term to short-term or vice-versa), (iii) the net amount, if any, by which the consolidated deferred revenues and other consolidated accrued long-term liability accounts of the Company and its consolidated Subsidiaries decreased during such fiscal year and (iv) the net amount, if any, by which the consolidated accrued long-term asset accounts of the Company and its consolidated Subsidiaries increased during such fiscal year; minus

(e) the sum (without duplication) of (i) Capital Expenditures made in cash for such fiscal year (except to the extent financed from Excluded Sources) and (ii) cash consideration paid during such fiscal year to make acquisitions or other long-term investments (other than cash equivalents) (except to the extent financed from Excluded Sources); minus

(f) the aggregate principal amount of Long-Term Indebtedness repaid or prepaid by the Company and its consolidated Subsidiaries during such fiscal year, excluding (i) Indebtedness in respect of Revolving Loans and Letters of Credit or other revolving credit facilities (unless there is a corresponding reduction in the commitments in respect of such other revolving credit facilities), (ii) Term Loans prepaid pursuant to Section 2.10(a), (c), (d) or (e) and (iii) repayments or prepayments of Long-Term Indebtedness financed from Excluded Sources; minus

(g) the aggregate amount of Restricted Payments made by the Company in cash during such fiscal year pursuant to Section 6.08(a) (other than clauses (i), (ii), (iii) and (ix) of Section 6.08(a)), except Restricted Payments financed from Excluded Sources; minus

(h) other cash payments in respect of long-term liabilities and long-term assets (in each case, other than in respect of Indebtedness) by the Company and its consolidated Subsidiaries during such period to the extent not deducted in determining consolidated net income (or loss) for such fiscal year.

“Exchange Act” means the United States Securities Exchange Act of 1934.

“Exchange Rate” means on any day, for purposes of determining the Dollar Equivalent of any other currency, the rate of exchange for the purchase of Dollars with such currency last provided (either by publication or otherwise provided to the Administrative Agent) by the applicable Thomson Reuters Corp., Refinitiv, or any successor thereto (“Reuters”) source on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of Dollars with such currency, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in Dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion).

“Excluded Assets” has the meaning set forth in the Collateral Agreement.

“Excluded Sources” means (a) proceeds of any incurrence or issuance of Long-Term Indebtedness or Capital Lease Obligations, (b) Net Proceeds of any sale, transfer, lease or other disposition of assets made in reliance on Section 6.05(k), (c) proceeds of any issuance or sale of Equity Interests in the Company or any capital contributions to the Company and (d) other proceeds not included in the consolidated net income of the Company and its consolidated Subsidiaries.

“Excluded Subsidiary” means (a) any Subsidiary that is not a wholly-owned subsidiary of the Company on the Effective Date or, if later, the date it first becomes a Subsidiary; provided that any such Subsidiary shall cease to be an Excluded Subsidiary at such time as it becomes a wholly owned Subsidiary of the Company and none of clauses (b) through

(f) of this definition apply to it, (b) any Subsidiary that is a CFC (and accordingly, in no event shall a CFC be required to enter into any Security Document or pledge any assets hereunder), (c) any Subsidiary that is prohibited by applicable Requirements of Law from guaranteeing the Loan Document Obligations, (d) any Subsidiary (i) that is prohibited by any contractual obligation existing on the Effective Date or on the date such Subsidiary is acquired or otherwise becomes a Subsidiary (but not entered into in contemplation of the Transactions or such acquisition) from guaranteeing the Loan Document Obligations, (ii) that would require governmental (including regulatory) consent, approval, license or authorization to provide such Guarantee, unless such consent, approval, license or authorization has been received, or (iii) for which the provision of such Guarantee would result in a material adverse tax consequence to the Company and the Subsidiaries, taken as a whole (as reasonably determined in good faith by the Company), (e) any captive insurance subsidiary, not for profit subsidiary or special purpose entity, including any Receivables Subsidiary and (f) any other Subsidiary excused from becoming a Guarantor Loan Party pursuant to the last paragraph of the definition of the term “Collateral and Guarantee Requirement”.

“Excluded Taxes” means, with respect to any payment made by any Loan Party under this Agreement or any other Loan Document, any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient:

(a) Taxes imposed on or measured by net or gross income (however denominated), franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes;

(b) in the case of any Lender (other than an assignee pursuant to a request by the Company under Section 2.18(b)), any U.S. Federal, United Kingdom, Irish and Dutch withholding Taxes:

(i) resulting from any law in effect on the date such Lender becomes a party to this Agreement (or designates a new lending office), including circumstances where (x) any United Kingdom taxes are required to be deducted or withheld (a “UK Tax Deduction”) from a payment to (1) a UK Treaty Lender and the payment has not been specified in a direction given by the Commissioners of HMRC under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI1970/488); and (2) a Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender and an officer of HMRC has given (and not revoked) a direction under section 931 of the UK Taxes Act and the payment could have been made without a UK Tax Deduction if such direction had not been made, or (y) any Irish taxes are required to be deducted or withheld from a payment to an Irish Treaty Lender and the payment has not been specified in an authorization given by the Revenue Commissioners of Ireland in effect on the Interest Payment Date, or

(ii) attributable to such Lender’s failure to comply with Section 2.16(f), (g)(i), (g)(ii), (g)(iii), (g)(vi), (h) and (i),

except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Company with respect to such withholding Taxes pursuant to Section 2.16(a), or except to the extent that any United Kingdom withholding Taxes are attributable to the failure of the relevant Loan Party to comply with its obligations in Section 2.16(g)(i), (g)(iii) and (g)(v);

(c) any U.S. federal withholding Taxes imposed under FATCA; and

(d) the bank levy as set out in the Finance Act 2011 of the United Kingdom and the bank levy as set out in the Bank Tax Act of the Netherlands.

“Existing 5.875% Notes” means the 5.875% senior unsecured notes due 2021 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

“Existing 6.375% Notes” means the 6.375% senior unsecured notes due 2023 issued by NCR Escrow Corp. on December 19, 2013, and assumed by the Company on January 10, 2014.

“Existing Credit Agreement” means this Agreement as amended and in effect immediately prior to the Effective Date.

“Existing Letters of Credit” means the letters of credit previously issued pursuant to the Existing Credit Agreement that (a) are outstanding on the Effective Date and (b) are listed on Schedule 1.01A.

“Existing Preferred” means the Company’s Series A Convertible Preferred Stock, par value \$0.01, outstanding on the Effective Date.

“Existing Preferred Documentation” means the Articles Supplementary Classifying the Existing Preferred, the Investment Agreement dated as of November 11, 2015, by and between the Company and the Purchasers identified therein and each other agreement evidencing, governing the rights of the holders of or otherwise relating to the Existing Preferred.

“FAS 842” has the meaning set forth in Section 1.04(a).

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

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and



published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Fee Letters” has the meaning set forth in the Engagement Letter.

“Financial Officer” means, with respect to any Person, the chief financial officer, principal accounting officer, treasurer, controller or other officer with equivalent responsibility of such Person.

“Foreign Benefit Event” means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount of unfunded liabilities permitted under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law, or in excess of the amount that would be permitted absent a waiver from the relevant Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by the Company or any Subsidiary under applicable law on account of the complete or partial termination of such Foreign Pension Plan or the complete or partial withdrawal of any participating employer therein (excluding any liability (including contingent liabilities) that would as a matter of course be imposed under applicable law as the result of any voluntary full or partial termination of any such Foreign Pension Plan as a result of a voluntary and legally permissible defeasance effected by the Company and/or its Subsidiaries of the related obligations and liabilities of the Company and its Subsidiaries under such Foreign Pension Plan) or (e) the occurrence of any transaction that is prohibited under the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law and that could reasonably be expected to result in the incurrence of any liability by the Company or any Subsidiary, or the imposition on the Company or any Subsidiary of any fine, excise tax or penalty resulting from any noncompliance with the respective requirements of the governing documents for any applicable Foreign Pension Plan or any applicable law.

“Foreign Borrower” means each of (a) NCR Limited, a private limited company incorporated in England and Wales, (b) NCR Nederland B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) organized under the laws of the Netherlands, (c) NCR Global Solutions Limited, a limited liability company incorporated in Ireland and (d) each other Foreign Borrower that becomes a party hereto pursuant to Section 2.23(a), in each case, unless and until such Person ceases to be a Foreign Borrower hereunder.

“Foreign Borrower Exposure” means, at any time, the Dollar Equivalent of the outstanding principal amount of the Revolving Loans borrowed by the Foreign Borrowers.

“Foreign Borrower Joinder Agreement” means an agreement substantially in the form of Exhibit J-1, executed by the Company and the applicable Foreign Borrower.

“Foreign Borrower Obligations” has the meaning set forth in the Collateral Agreement.

“Foreign Borrower Termination” means an agreement substantially in the form of Exhibit J-2, executed by the Company.

“Foreign Lender” means any Lender that is not a U.S. Person.

“Foreign Pension Plan” means any benefit or welfare plan that under applicable law outside of the United States is funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

“Foreign Pledge Agreement” means a pledge or charge agreement granting a Lien on Equity Interests in a Foreign Subsidiary to secure the Obligations, governed by the law of the jurisdiction of organization of such Foreign Subsidiary and in form and substance reasonably satisfactory to the Administrative Agent.

“Foreign Source Prepayment” means, for any Foreign Subsidiary, any Net Proceeds arising from a Prepayment Event under paragraph (a) or (b) of the definition of Prepayment Event in respect of any asset of such Foreign Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America, applied in accordance with the consistency requirements thereof (subject to Section 1.04); provided, however, that if the Company hereafter changes its accounting standards in accordance with applicable laws and regulations, including those of the SEC, to adopt International Financial Reporting Standards, GAAP will mean such International Financial Reporting Standards after the effective date of such adoption (it being understood that any such adoption will be deemed to be a change in GAAP for all purposes hereof, including for purposes of Section 1.04).

“Governmental Approvals” means all authorizations, consents, approvals, permits, licenses and exemptions of, registrations and filings with, and reports to, Governmental Authorities.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national body exercising such powers or functions, such as the European Union or the European Central Bank).

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in

any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee (including for purposes of determining the amount of any Investment associated with such Guarantee) shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which the guarantor may be liable pursuant to the terms of the instrument embodying such Guarantee, unless (in the case of a primary obligation that is not Indebtedness) such primary obligation and the maximum amount for which such guarantor may be liable are not stated or determinable, in which case the amount of such Guarantee shall be such guarantor’s maximum reasonably anticipated contingent liability in respect thereof as determined by the Company in good faith.

“Guarantor Loan Party” means the Company and each Subsidiary Loan Party.

“Hazardous Materials” means all explosive, radioactive, hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

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

“HMRC” means H.M. Revenue & Customs of the United Kingdom.

“HMRC DT Treaty Passport scheme” means the Board of HMRC Double Taxation Treaty Passport scheme.

“IBA” has the meaning set forth in Section 1.09.

“Impacted Interest Period” means at any time with respect to an Interest Period for a Borrowing denominated in a specified currency that the Screen Rate for such currency is not available at such time for such Interest Period.

“Incremental Commitment” means an Incremental Revolving Commitment or an Incremental Term Commitment.

“Incremental Facility” means an Incremental Revolving Facility or an Incremental Term Facility.

“Incremental Facility Agreement” means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Term Commitments of any Series or Incremental Revolving Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.20.

“Incremental Lender” means an Incremental Revolving Lender or an Incremental Term Lender.

“Incremental Revolving Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.20, to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure under such Incremental Facility Agreement.

“Incremental Revolving Facility” means an incremental portion of the Revolving Commitments established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Revolving Commitments.

“Incremental Revolving Lender” means a Lender with an Incremental Revolving Commitment.

“Incremental Term A Loans” means Incremental Term Loans that (a) are provided primarily by Regulated Banks, (b) amortize at a rate per annum of not less than 2.50% in each period of four consecutive fiscal quarters commencing on or after the funding of such Loans and ending on or prior to the applicable Maturity Date (subject to any customary grace period) and (c) have a weighted average life to maturity, when incurred, of five years or less.

“Incremental Term Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant an Incremental Facility Agreement and Section 2.20, to make Incremental Term Loans of any Series hereunder, expressed as an amount representing the maximum principal amount of the Incremental Term Loans of such Series to be made by such Lender.

“Incremental Term Facility” means an incremental term loan facility established hereunder pursuant to an Incremental Facility Agreement providing for Incremental Term Commitments.

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

“Incremental Term Loan” means a Loan made by an Incremental Term Lender to the Company pursuant to Section 2.20.

“Incremental Term Maturity Date” means, with respect to Incremental Term Loans of any Series, the scheduled date on which such Incremental Term Loans shall become due and payable in full hereunder, as specified in the applicable Incremental Facility Agreement.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (excluding trade accounts payable incurred in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services, excluding current accounts payable incurred in the ordinary course of business, (e) all Capital Lease Obligations and Synthetic Lease Obligations of such Person, (f) the maximum aggregate amount of all letters of credit and letters of guaranty in respect of which such Person is an account party (x) supporting Indebtedness or (y) obtained for any purpose not in the ordinary course of business, (g) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (h) all Disqualified Equity Interests in such Person, valued, as of the date of determination, at the greater of (i) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Equity Interests or Indebtedness into which such Disqualified Equity Interests are convertible or exchangeable) and (ii) the maximum liquidation preference of such Disqualified Equity Interests, (i) all Third Party Interests in respect of Permitted Receivables Facilities of such Person or its subsidiaries except to the extent that such Indebtedness would not appear as a liability upon a balance sheet (other than in the footnotes to financial statements) of such Person prepared in accordance with GAAP, (j) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person (if such Person has not assumed such Indebtedness of others, then the amount of Indebtedness of such Person shall be the lesser of (A) the amount of such Indebtedness of others and (B) the fair market value of such property, as reasonably determined by such Person) and (k) all Guarantees by such Person of Indebtedness of others. The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such other Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“Indemnified Institution” has the meaning set forth in Section 9.03(b).

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under

this Agreement or any other Loan Document and (b) to the extent not otherwise described in clause (a) hereof, Other Taxes.

“Indemnitee” has the meaning set forth in Section 9.03(b).

“Initial Term Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make an Initial Term Loan on the Effective Date, expressed as an amount representing the maximum principal amount of the Initial Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Initial Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Initial Term Commitment, as applicable. The initial aggregate amount of the Lenders’ Initial Term Commitments as of the Effective Date is \$350,000,000.

“Initial Term Lender” means a Lender with an Initial Term Commitment or an outstanding Initial Term Loan.

“Initial Term Loan” means a Loan made pursuant to clause (a) of Section 2.01.

“Intellectual Property” means all intellectual and similar property of every kind and nature now owned or hereafter acquired by the Company or any Subsidiary, including inventions, designs, patents, copyrights, trademarks, trade secrets, domain names, confidential or proprietary technical and business information, know-how, show-how or other similar data or information, software and databases and all embodiments or fixations thereof and related documentation, all additions, improvements and accessions to any of the foregoing and all registrations for any of the foregoing.

“Intercompany Permitted Receivables Facility Note” means any promissory note or debt obligations issued or incurred by a Receivables Subsidiary in consideration or partial consideration for the acquisition of Receivables from the Company or any Subsidiary in a Permitted Receivables Facility permitted hereunder.

“Interest Election Request” means a written request by the applicable Borrower, or the Borrower Agent on its behalf, to convert or continue a Revolving Borrowing or Term Borrowing in accordance with Section 2.06, which shall be substantially in the form of Exhibit F or any other form approved by the Administrative Agent.

“Interest Payment Date” means (a) with respect to any ABR Loan, the last day of each March, June, September and December, and (b) with respect to any Eurocurrency Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurocurrency Borrowing with an Interest Period of more than three months’ duration, such day or days prior to the last day of such Interest Period as shall occur at intervals of three months’ duration after the first day of such Interest Period.

“Interest Period” means, with respect to any Eurocurrency Borrowing, the period commencing on the date of such Borrowing and ending on (i) the seventh day thereafter or (ii) the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or, if agreed to by each Lender participating therein, twelve months thereafter), as the applicable Borrower, or the Borrower Agent on its behalf, may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of Interest Periods referred to in clause (ii) above, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period referred to in clause (ii) that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interests” means, with respect to any Person, any Equity Interests, Indebtedness or any other debt or equity interests in such Person, including in the case of a Receivables Subsidiary, if applicable, any Intercompany Permitted Receivables Facility Notes or Third Party Interests.

“Interpolated Screen Rate” means, at any time, with respect to any currency, at any time for any Interest Period, or with respect to any determination of the Alternate Base Rate pursuant to clause (c) of the definition thereof, the rate per annum (rounded to the same number of decimal places as the Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Screen Rate for the longest period for which that Screen Rate is available for the applicable currency that is shorter than the Impacted Interest Period and (b) the applicable Screen Rate for the shortest period for which that Screen Rate is available for the applicable currency that exceeds the Impacted Interest Period, in each case, at such time.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness or other obligations of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any date of determination, of (i) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing a payment or prepayment of in respect of principal of such Investment, but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance

after the date thereof, (ii) any Investment in the form of a Guarantee shall be the amount determined in accordance with the definition of “Guarantee” herein, (iii) any Investment in the form of a transfer of Equity Interests or other non-cash property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair market value (as determined in good faith by a Financial Officer) of such Equity Interests or other property as of the time of the transfer, minus any payments actually received by such investor representing a return of capital of (but not any dividends or other distributions in respect of return on the capital of) such Investment, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment and (iv) any Investment (other than any Investment referred to in clause (i), (ii) or (iii) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment (including any Indebtedness assumed in connection therewith), plus (A) the cost of all additions thereto and minus (B) the amount of any portion of such Investment that has been repaid to the investor in cash as a repayment of principal or a return of capital, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment.

“Investment Grade Date” means the first date on which the Company achieves an Investment Grade Rating.

“Investment Grade Rating” means either (i) a corporate credit rating from S&P of at least BBB- and a corporate family rating from Moody’s of at least Ba1, in each case with a stable or better outlook, or (ii) a corporate family rating from Moody’s of at least Baa3 and a corporate credit rating from S&P of at least BB+, in each case with a stable or better outlook.

“IP Security Agreements” has the meaning set forth in the Collateral Agreement.

“IP Subsidiary” means any Subsidiary that at any time owns any Intellectual Property or rights to Intellectual Property that are material to the business or operations of the Company and the Subsidiaries, taken as a whole.

“Irish Borrower” means any Borrower (i) that is incorporated under the laws of Ireland or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of Ireland.

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

(a) a bank within the meaning of section 246(3)(a) of the TCA which is carrying on a bona fide banking business in Ireland for the purposes of section 246(3)(a) of the TCA and whose applicable lending office is located in Ireland;

(b) [reserved]; or

(c) a body corporate:



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

(ii) where the interest payable:

(A) (A) is exempted from the charge to income tax by arrangements that have the force of law under the procedures set out in section 826(1) of the TCA; or

(B) (B) would be exempted from the charge to income tax if arrangements made on or before the date of payment of the interest that do not have the force of law under procedures set out in section 826(1) of the TCA had the force of law when the interest was paid,

provided that interest payable to such company in respect of an advance under a Loan Document is not paid to that company in connection with a trade or business which is carried on in Ireland by that company through a branch or agency;

(d) a U.S. corporation that is incorporated in the U.S. and is subject to tax in the US on its worldwide income provided that interest payable to such U.S. corporation is not paid in connection with a trade or business which is carried on in Ireland by that U.S. corporation through a branch or agency;

(e) a U.S. limited liability company (“LLC”); provided that the ultimate recipients of the interest would be Irish Qualifying Lenders within paragraphs (c) or (d) of this definition and the business conducted through the LLC is so structured for market reasons and not for tax avoidance purposes and the ultimate recipients of the relevant interest do not provide their commitment in connection with a trade or business which is carried on in Ireland through a branch or agency;

(f) a body corporate:

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

(ii) in whose hands any interest payable in respect of monies so advanced is taken into account in computing the trading income of such company; and

(iii) which:

(A) has complied with the notification requirements under section 246(5)(a) of the TCA; and

(B) has provided the Borrowers with its tax reference number (within the meaning of section 885 of the TCA);

and whose applicable lending office is located in Ireland;

(g) a qualifying company (within the meaning of section 110 of the TCA) and whose applicable lending office is located in Ireland;

(h) an investment undertaking within the meaning of section 739B of the TCA and whose applicable lending office is located in Ireland;

(i) an exempt approved scheme within the meaning of section 774 of the TCA and whose applicable lending office is located in Ireland; or

(j) an Irish Treaty Lender.

“Irish Treaty Lender” means a Lender which is treated as a resident of an Irish Treaty State for the purposes of an Irish Treaty, does not carry on a business in Ireland through a branch or agency with which that Lender’s participation in the Loan Document is directly or indirectly connected and, subject to the completion of procedural formalities, meets all other conditions under the Irish Treaty for full exemption from tax imposed by Ireland on interest.

“Irish Treaty State” means a jurisdiction having a double taxation agreement with Ireland (an “Irish Treaty”) which makes provision for full exemption from tax imposed by Ireland on interest and has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“IRS” means the United States Internal Revenue Service.

“ISDA CDS Definitions” has the meaning set forth in Section 9.02(e).

“Issuing Bank” means (a) JPMorgan Chase Bank, N.A., (b) Bank of America, N.A., (c) Wells Fargo Bank, National Association, (d) MUFG Bank, Ltd., (e) PNC Bank, National Association, (f) Royal Bank of Canada, (g) Suntrust Bank, (h) Capital One, National Association and (i) each Revolving Lender that shall have become an Issuing Bank hereunder as provided in Section 2.04(j) (other than any Person that shall have ceased to be an Issuing Bank as provided in Section 2.04(k)), each in its capacity as an issuer of Letters of Credit hereunder. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.04 with respect to such Letters of Credit).

“Judgment Currency” has the meaning set forth in Section 9.21(b).

“Junior Indebtedness” means any Indebtedness that is subordinated in right of payment to the Loan Document Obligations.

“LC Commitment” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank’s LC Commitment is set forth on Schedule 2.01, or if an Issuing Bank has entered into an Assignment and Assumption or became an Issuing Bank pursuant to an agreement designating it as contemplated by Section 2.04(j), the amount set forth for such Issuing Bank as its LC Commitment in the Register maintained by the Administrative Agent or in such agreement.

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

“LC Exposure” means, at any time, the sum of (a) the aggregate of the Dollar Equivalents of all Letters of Credit that remain available for drawing at such time and (b) the aggregate of the Dollar Equivalents of the amounts of all LC Disbursements that have not yet been reimbursed by or on behalf of the applicable Borrowers at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“LC Fee” has the meaning set forth in Section 2.11(b).

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or an Incremental Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption.

“Letter of Credit” means any standby letter of credit issued pursuant to this Agreement, other than any such letter of credit that shall have ceased to be a “Letter of Credit” outstanding hereunder pursuant to Section 9.05.

“Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Leverage Ratio Increase Amount” means, with respect to any new incurrence of Pension Funding Indebtedness on any date, the ratio (rounded upwards, if necessary, to the next 1/10), expressed as a decimal, of (a) the aggregate principal amount of such Pension Funding Indebtedness incurred on such date to (b) the greater of (i) Consolidated EBITDA for the most recently ended period of four consecutive fiscal quarters of the Company and (ii) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company ended on March 31, 2013.

“LIBO Rate” means, with respect to any Eurocurrency Borrowing denominated in Dollars or in Sterling for any Interest Period, the applicable Screen Rate as of the Specified Time on the Quotation Day; provided that with respect to an Impacted Interest Period, the LIBO Rate shall be the Interpolated Screen Rate with respect to such currency as of the Specified Time on the Quotation Day; and provided, further, that if the LIBO Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, charge, assignment by way of security, security interest or other encumbrance on, in or of such asset, including any arrangement entered into for the purpose of making particular assets available to satisfy any Indebtedness or other obligation, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or Synthetic Lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Limited Condition Acquisition” means any Permitted Acquisition or other Investment permitted by this Agreement with respect to which the consummation of such Permitted Acquisition or other Investment by the Company or any Subsidiary is not conditioned on the availability of, or on obtaining, third party financing.

“Loan Document Obligations” has the meaning set forth in the Collateral Agreement.

“Loan Documents” means this Agreement, the Incremental Facility Agreements, the Loan Modification Agreements, the Collateral Agreement, the other Security Documents, any letter of credit applications, any agreements between any Borrower and any Issuing Bank regarding such Issuing Bank’s LC Commitment or the respective rights and obligations between each applicable Borrower and such Issuing Bank in connection with the issuance of Letters of Credit, any agreement designating an additional Issuing Bank as contemplated by Section 2.04(j) and, except for purposes of Section 9.02, any promissory notes delivered pursuant to Section 2.08(c).

“Loan Modification Agreement” means a Loan Modification Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, any other applicable Borrower, the Administrative Agent and one or more Accepting Lenders, effecting one or more Permitted Amendments and such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.21.

“Loan Modification Offer” has the meaning set forth in Section 2.21(a).

“Loan Parties” means each Borrower and each Subsidiary Loan Party.

“Loans” means the loans made by the Lenders to the Borrowers pursuant to this Agreement.

“Local Time” means (a) with respect to a Dollar-denominated Borrowing or Letter of Credit, New York City time, and (b) with respect to a Euro-denominated or Sterling denominated Borrowing or Letter of Credit, London time.

“Long-Term Indebtedness” means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

“Majority in Interest”, when used in reference to Lenders of any Class, means, at any time, (a) in the case of the Revolving Lenders, Lenders having Revolving Exposures and unused Revolving Commitments representing more than 50% of the sum of the Aggregate Revolving Exposures and the unused Aggregate Revolving Commitment at such time and (b) in the case of the Term Lenders of any Class, Lenders holding outstanding Term Loans or Term Commitments of such Class representing more than 50% of all Term Loans and Term Commitments of such Class outstanding at such time.

“Managing Arranger” means (a) with respect to the revolving credit facility provided for herein, J.P. Morgan Chase Bank, N.A., in its capacity as the “left placement” lead arranger and bookrunner and (b) with respect to the term loan credit facilities provided for herein, BofA Securities, Inc., in its capacity as the “left placement” lead arranger and bookrunner.

“Mark-to-Market Pension Accounting” means an accounting methodology, as set forth in Annex A, that records actuarial gains and losses on Plans and Foreign Pension Plans in the year incurred rather than amortizing such gains and losses over time.

“Material Acquisition” means any acquisition, or a series of related acquisitions, of (a) Equity Interests in any Person (other than an existing Subsidiary of the Company) if, after giving effect thereto, such Person will become a Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person (other than an existing Subsidiary of the Company); provided that the aggregate consideration therefor (including Indebtedness assumed in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or financial condition of the Company and the Subsidiaries, taken as a whole, (b) the ability of the Company and the other Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents.

“Material Disposition” means any Disposition, or a series of related Dispositions, of (a) all or substantially all the issued and outstanding Equity Interests in any Person that are owned by the Company or any Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed by the transferee in connection therewith, all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments) and all other consideration payable in connection therewith (including payment obligations in respect of noncompetition agreements or other arrangements representing acquisition consideration)) exceeds \$75,000,000.

“Material Indebtedness” means Indebtedness (other than the Loans, Letters of Credit and Guarantees under the Loan Documents), or obligations in respect of one or more Hedging Agreements, of any one or more of the Company and the Subsidiaries in an aggregate principal amount of \$150,000,000 or more. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Hedging Agreement were terminated at such time.

“Material Subsidiary” means (i) each IP Subsidiary, (ii) each Domestic Subsidiary that has become a Designated Subsidiary pursuant to a designation by the Company under Section 5.03(b), (iii) any Domestic Subsidiary that directly owns or holds Equity Interests of any Foreign Subsidiary or CFC Holdco that is a Material Subsidiary, (iv) each Domestic Subsidiary (a) the consolidated total assets of which (excluding assets of, and investments in, Foreign Subsidiaries) equal 5% or more of the consolidated total assets of the Company (excluding assets of, and investments in, Foreign Subsidiaries) or (b) the consolidated revenues of which (excluding consolidated revenues attributable to Foreign Subsidiaries) account for 5% or more of the consolidated revenues of the Company (excluding consolidated revenues attributable to Foreign Subsidiaries), and (v) any Foreign Subsidiary or CFC Holdco (a) the consolidated total assets of which equal 5% or more of the consolidated total assets of the Company or (b) the consolidated revenues of which accounts for 5% or more of the consolidated revenues of the Company, in each case as of the end of or for the most recent period of four consecutive fiscal quarters of the Company for which financial statements have been delivered pursuant to Sections 5.01(a) or 5.01(b); provided that if at the end of or for any such most recent period of four consecutive fiscal quarters the combined consolidated total assets or combined consolidated revenues of all Subsidiaries that would not constitute Material Subsidiaries shall exceed 15% of the consolidated total assets of the Company or 15% of the consolidated revenues of the Company, then one or more of such Subsidiaries shall for all purposes of this Agreement be deemed to be Material Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated revenues, as the case may be, until such excess shall have been eliminated.

“Maturity Date” means the Term Maturity Date, the Incremental Term Maturity Date with respect to Incremental Term Loans of any Series or the Revolving Maturity Date, as the context requires.

“Maximum Rate” has the meaning set forth in Section 9.13.

“MNPI” means material information concerning the Company and the Subsidiaries and their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act.

“Moody’s” means Moody’s Investors Service, Inc., and any successor to its rating agency business.

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

“NCR Manaus” means NCR BRASIL – INDÚSTRIA DE EQUIPAMENTOS PARA AUTOMAÇÃO S.A., a Brazilian corporation.

“NCR Manaus Holdco” means any Subsidiary that directly owns or holds any Equity Interest in NCR Manaus.

“Net Proceeds” means, with respect to any event, (a) the cash (which term, for purposes of this definition, shall include Permitted Investments) proceeds (including, in the case of any casualty, condemnation or similar proceeding, insurance, condemnation or similar proceeds) received in respect of such event, including any cash received in respect of any noncash proceeds, but only as and when received, net of (b) the sum, without duplication, of (i) all fees and out-of-pocket expenses paid in connection with such event by the Company and the Subsidiaries, (ii) in the case of a Disposition (including pursuant to a Sale/Leaseback Transaction or a casualty or a condemnation or similar proceeding) of an asset, (A) the amount of all payments required to be made by the Company and the Subsidiaries as a result of such event to repay Indebtedness (other than Loans) secured by such asset and (B) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (B)) attributable to minority interests and not available for distribution to or for the account of the Company and the Subsidiaries as a result thereof and (iii) the amount of all taxes paid (or reasonably estimated to be payable) by the Company and the Subsidiaries and the amount of any reserves established by the Company and the Subsidiaries in accordance with GAAP to fund purchase price adjustment, indemnification and similar contingent liabilities (other than any earnout obligations) reasonably estimated to be payable and that are directly attributable to the occurrence of such event (as determined reasonably and in good faith by the chief financial officer of the Company). For purposes of this definition, in the event any contingent liability reserve established with respect to any event as described in clause (b)(iii) above shall be reduced, the amount of such reduction shall, except to the extent such reduction is made as a result of a payment having been made in respect of the contingent liabilities with respect to which such reserve has been established, be deemed to be receipt, on the date of such reduction, of cash proceeds in respect of such event.

“Net Short Lender” has the meaning set forth in Section 9.02(e).

“Net Working Capital” means, at any date, (a) the consolidated current assets of Company and its consolidated Subsidiaries as of such date (excluding cash and Permitted Investments) minus (b) the consolidated current liabilities of Company and its consolidated Subsidiaries as of such date (excluding current liabilities in respect of Indebtedness). Net Working Capital at any date may be a positive or negative number. Net Working Capital increases when it becomes more positive or less negative and decreases when it becomes less positive or more negative.

“Non-Cash Charges” means any noncash charges, including (a) any write-off for impairment of long lived assets including goodwill, intangible assets and fixed assets such as property, plant and equipment, and investments in debt and equity securities pursuant to GAAP,

(b) non-cash expenses resulting from the grant of stock options, restricted stock awards or other equity-based incentives to any director, officer or employee of the Company or any Subsidiary (excluding any cash payments of income taxes made for the benefit of any such Person in consideration of the surrender of any portion of such options, stock or other incentives upon the exercise or vesting thereof) and (c) any non-cash charges resulting from the application of purchase accounting; provided that Non-Cash Charges shall not include additions in the ordinary course of business to bad debt reserves or bad debt expense, any non-cash charge in the ordinary course of business that results from the write-down or write-off of inventory and any noncash charge that results from the write-down or write-off in the ordinary course of business of accounts receivable or that is taken in the ordinary course of business in respect of any other item that was included in Consolidated Net Income in a prior period.

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

“Non-Investment Grade Date” means the first date, following an Investment Grade Date, on which the Company does not have an Investment Grade Rating.

“Non-Investment Grade Period” means (a) the period commencing on and including the Effective Date to but excluding the first Investment Grade Date, and (b) each period commencing on and including each subsequent Non-Investment Grade Date to but excluding the next succeeding Investment Grade Date.

“Non-Significant Subsidiary” means any Subsidiary that is not a Foreign Borrower, a Subsidiary Loan Party or a Material Subsidiary.

“Notes” means senior unsecured (except as contemplated by the definition of “Permitted Escrow Transactions”) notes of the Company or a Permitted Escrow Subsidiary issued and sold to provide a portion of the cash consideration payable for any other Permitted Material Acquisition.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” has the meaning set forth in the Collateral Agreement.

“Original Effective Date” means July 25, 2013.



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

“Other Taxes” means any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any other Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment under Section 2.18(b)).

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Overnight Eurocurrency Rate” means, for any day, (a) in respect of any Sterling-denominated amount, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for Sterling for an overnight borrowing as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, on such day and (b) in respect of any Euro-denominated amount, the Euro interbank offered rate administered by the European Money Markets Institute (or any other Person that takes over the administration of that rate) for an overnight borrowing as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion); and provided further that if the Overnight Eurocurrency Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Participant Register” has the meaning set forth in Section 9.04(c)(i).

“Participants” has the meaning set forth in Section 9.04(c)(i).

“Party” has the meaning set forth in Section 2.16(k)(i).

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

“Pension Funding Indebtedness” means any Long-Term Indebtedness (other than Indebtedness utilizing the Revolving Commitments or any other revolving or temporary debt facility) permitted under Section 6.01 incurred on or after the Original Effective Date by the Company, any Guarantor or any Subsidiary located in Japan, Germany, the United Kingdom or Switzerland to the extent the proceeds of such Indebtedness are used (i) not later than the 60th day (in respect of contributions to Plans) and not later than the 120th day (in respect of contributions to Foreign Pension Plans) after the receipt of such proceeds (as such time periods may be extended by the Administrative Agent in its sole discretion to accommodate regulatory requirements, obtaining governmental consents or approvals, or obtaining consents or approvals of trustees or plan administrators), to make contributions to one or more Plans and/or Foreign Pension Plans existing on the Original Effective Date that reduce the amount of then-existing unfunded liabilities of such Plan, Foreign Pension Plan, Plans or Foreign Pension Plans, or (ii) to refinance Revolving Loans or other temporary Indebtedness (which will not constitute Pension Funding Indebtedness) the proceeds of which were previously used for the purposes set forth in clause (i); provided that the issuance of such Pension Funding Indebtedness and the use of proceeds thereof to refinance such Revolving Loans or other temporary Indebtedness occurs within one-year after the date of incurrence of such Revolving Loans or other temporary Indebtedness; provided, however, that Pension Funding Indebtedness will not in any event include any such Indebtedness the proceeds of which are used to fund (or to refinance Revolving Loans or other temporary Indebtedness the proceeds of which were used to fund) ongoing annual expenses of any such Plan or Foreign Pension Plan (other than ongoing annual expenses paid out of the assets of any such Plan or Foreign Pension Plan). It is understood and agreed that the Term Loans hereunder, including those made on the Effective Date, will constitute Pension Funding Indebtedness to the extent the proceeds thereof have been used in accordance with the foregoing definition (provided that, notwithstanding the foregoing definition, \$80,000,000 of the Term Loans borrowed hereunder, the proceeds of which Term Loans were used to refinance term loans borrowed under the Existing Credit Agreement, shall be deemed Pension Funding Indebtedness).

“Perfection Certificate” means a certificate substantially in the form of Exhibit G or any other form approved by the Administrative Agent.

“Performance Support Instrument” means (a) a performance bond or performance guarantee or a letter of credit (other than a Letter of Credit) issued in lieu of a performance bond or performance guarantee, in each case for the account of and to support the performance obligations of a Foreign Subsidiary, or (b) a letter of credit (other than a Letter of Credit) issued to support obligations of the Company or any Subsidiary permitted pursuant to Section 6.01(ix)(x).

“Permitted Acquisition” means the purchase or other acquisition (including pursuant to two-step transaction such as a tender offer followed by a merger) by the Company or any Subsidiary of substantially all the Equity Interests in, or all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of

business of), any Person; provided that (i) such purchase or acquisition was not preceded by, or consummated pursuant to, an unsolicited tender offer or proxy contest initiated by or on behalf of the Company or any Subsidiary, (ii) all transactions related thereto are consummated in accordance with applicable law, (iii) the business of such Person, or such assets, as the case may be, constitute a business permitted under Section 6.03(b), (iv) with respect to each such purchase or other acquisition, all actions required to be taken with respect to each newly created or acquired Subsidiary or assets in order to satisfy the requirements set forth in the definition of the term “Collateral and Guarantee Requirement” shall have been taken (or arrangements for the taking of such actions satisfactory to the Administrative Agent shall have been made) and (v) at the time of and immediately after giving effect to any such purchase or other acquisition, (A) no Default shall have occurred and be continuing or would result therefrom (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (A) shall be limited to that there not have occurred and be continuing any Event of Default under clause (a) or (b) of Article VII or any Event of Default with respect to any Borrower under clause (i) or (j) of Article VII, in each case, at the signing of the definitive agreement to consummate such Limited Condition Acquisition and at the closing thereof), (B) the Leverage Ratio calculated on a Pro Forma Basis giving effect to such purchase or acquisition shall be not more than ~~0.25 less than~~ the then applicable ratio under Section 6.12, ~~if such Permitted Acquisition is consummated prior to the Investment Grade Date, or the then applicable ratio under Section 6.12, if such Permitted Acquisition is consummated after the Investment Grade Date, in each case~~ for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b) (provided that, in connection with a Limited Condition Acquisition, the requirement set forth in this clause (B) may, at the Company’s option, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof) and (C) in the case of such a purchase or other acquisition for consideration in excess of \$75,000,000, the Company shall have delivered to the Administrative Agent a certificate of a Financial Officer of the Company, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all the requirements set forth in this definition have been satisfied with respect to such purchase or other acquisition, together with reasonably detailed calculations demonstrating satisfaction of the requirement set forth in clause (v)(B) above.

“Permitted Additional Indebtedness” means Indebtedness of the Company or any Subsidiary Loan Party that (i) except as otherwise permitted under Section 6.02(a)(xvii), is not secured by any collateral (including the Collateral), (ii) except with respect to up to \$750,000,000 in the aggregate of Permitted Additional Indebtedness, does not mature earlier than, and has a weighted average life to maturity (determined without giving effect to any prepayments that reduce amortization) no earlier than, 91 days after the Term Maturity Date,, (iii) does not provide for any amortization, mandatory prepayment, mandatory redemption or mandatory repurchase (other than upon (x) an asset sale, so long as such requirements permit the prior prepayment of the Term Borrowings with the Net Proceeds of such asset sale, or (y) a change of control) prior to the date that is 91 days after the Term Maturity Date and (iv) is not guaranteed by any Subsidiary that is not a Subsidiary Loan Party (unless it becomes a Subsidiary Loan Party in connection with such transaction); provided that, (a) notwithstanding any failure of any Senior Bridge Loans (or any extended term loans or exchange notes into or for which such

Senior Bridge Loans may be converted or exchanged in accordance with the terms thereof) to comply with the requirements set forth in clauses (ii) and (iii) of this definition, such Senior Bridge Loans (and such extended term loans and exchange notes) shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as (x) such Senior Bridge Loans do not mature prior to the first anniversary of the closing date of the applicable Permitted Material Acquisition and the definitive documentation governing the Senior Bridge Facility contains provisions requiring, on or prior to such maturity date, automatic conversion of the Senior Bridge Loans into extended term loans (and permitting exchange of the Senior Bridge Loans for exchange notes), in each case having a maturity and weighted average life to maturity that comply with the requirements of clause (ii) of this definition, (y) the definitive documentation governing the Senior Bridge Facility (or such extended term loans or exchange notes, as applicable) does not require mandatory prepayment of or any mandatory offer to prepay or repurchase the Senior Bridge Loans (or such extended term loans or exchange notes, as applicable) other than from (I) the Net Proceeds of sales of Equity Interests of the Company and (II) to the extent not required to be applied to the prepayment of Term Borrowings, reinvested or utilized to effect Permitted Acquisitions pursuant to Section 2.10(c), from asset sales or incurrences of Indebtedness by the Company and its Subsidiaries, and (z) the terms of the Senior Bridge Loans (and such extended term loans and exchange notes) otherwise comply with the requirements of clauses (i) and (iv) of this definition and (b) in the event that any Notes are issued in connection with a Permitted Material Acquisition prior to the date of consummation of such Permitted Material Acquisition, notwithstanding any failure of such Notes to comply with the requirements set forth in clauses (i) and (iii) of this definition solely as a result of the Permitted Escrow Transactions with respect to such Notes and the requirement to prepay or repurchase such Notes with the applicable Permitted Escrow Funds in accordance with the requirements of the proviso in Section 6.02(a)(xxi) hereof, such Notes shall constitute Permitted Additional Indebtedness for all purposes under this Agreement so long as the terms of such Notes otherwise comply with the requirements of this definition. The term “Permitted Additional Indebtedness” shall include the guarantees of Permitted Additional Indebtedness by Subsidiaries that are Subsidiary Loan Parties.

“Permitted Amendment” means an amendment to this Agreement and the other Loan Documents, effected in connection with a Loan Modification Offer pursuant to Section 2.21, providing for an extension of the Maturity Date applicable to the Loans and/or Commitments of the Accepting Lenders and, in connection therewith, (a) a change in the Applicable Rate with respect to the Loans and/or Commitments of the Accepting Lenders and/or (b) a change in the fees payable to, or the inclusion of new fees to be payable to, the Accepting Lenders.

“Permitted Cash Pooling Arrangement” means a cash management and deposit pooling agreement with a banking entity relating solely to deposit accounts of Foreign Subsidiaries and providing for temporary overdrafts to finance working capital needs of Foreign Subsidiaries, the pooling of funds of Foreign Subsidiaries deposited in linked deposit accounts to repay such overdrafts and the grant of Liens and setoff rights with respect to such deposited funds and linked deposit accounts to secure the repayment of such overdrafts and the payment of related interest and fees to such banking entity; provided that the obligations under any Permitted

Cash Pooling Arrangements are not secured by Liens (including set off rights) on or with respect to any assets of the Company or any Loan Party.

“Permitted Encumbrances” means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.06;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code), arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.06;

(c) pledges and deposits made or Liens imposed (i) in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations or other public statutory obligations and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(d) assignments by way of security, pledges and deposits made or Liens imposed (i) to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) in respect of letters of credit, surety bonds, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(e) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Company or any Subsidiary;

(f) banker’s liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions; provided that such deposit accounts or funds are not established or deposited for the purpose of providing collateral for any Indebtedness and are not subject to restrictions on access by the Company or any Subsidiary in excess of those required by applicable banking regulations;

(g) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases entered into by the Company and the Subsidiaries in the ordinary course of business;

(h) Liens securing or otherwise arising from judgments not constituting an Event of Default under clause (l) of Article VII;

(i) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the property subject to any lease, license or sublicense or concession agreement permitted by this Agreement; and

(j) Liens created pursuant to the general conditions of a bank operating in the Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*);

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness other than Liens referred to in clauses (c) and (d) above securing obligations under letters of credit or bank guarantees.

"Permitted Escrow Funds" means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, the sum of (a) the aggregate cash proceeds received by the Company or a Permitted Escrow Subsidiary from the issuance and sale of such Notes, plus (b) cash in an amount equal to interest accruing on such Notes for the escrow period provided in the escrow agreement applicable to such Notes.

"Permitted Escrow Subsidiary" means a wholly-owned limited purpose Subsidiary of the Company formed solely for the purposes of, and that solely engages in, the issuance of Notes and the Permitted Escrow Transactions with respect to such Notes in connection with a Permitted Material Acquisition; provided that such Permitted Escrow Subsidiary (a) has no assets or liabilities other than (i) cash and Permitted Investments constituting Permitted Escrow Funds with respect to the applicable Notes and (ii) obligations under the applicable Notes or otherwise arising out of the Permitted Escrow Transactions with respect to such Notes and (b) is merged into or consolidated with the Company (with the Company as the surviving Person) substantially contemporaneously with the consummation of such Permitted Material Acquisition, with the Company assuming such Permitted Escrow Subsidiary's obligations under the applicable Notes upon consummation of such merger or consolidation.

"Permitted Escrow Transactions" means, with respect to any Notes issued prior to the date of consummation of the related Permitted Material Acquisition, (a) the establishment by the Company or a Permitted Escrow Subsidiary of a segregated escrow account under the sole control of the trustee for such Notes or other escrow agent reasonably acceptable to the Administrative Agent, in each case pursuant to an escrow agreement reasonably acceptable to the Administrative Agent, which shall provide for the termination of such escrow and the discharge and release of the related Liens permitted by clause (c) below upon the earliest to occur of the events specified in the proviso in Section 6.02(a)(xxi) hereof, (b) the depositing of the Permitted Escrow Funds with respect to such Notes into such escrow account substantially contemporaneously with the issuance of such Notes and (c) the granting by the Company or a Permitted Escrow Subsidiary of a Lien on such escrow account and the Permitted Escrow Funds

deposited therein (and any earnings thereon) in favor of the trustee for such Notes, for the ratable benefit of the holders of such Notes.

“Permitted Investments” means Investments in cash equivalents, short-term debt obligations, bank deposits, and other debt and equity securities and obligations that, in each case, constitute “Eligible Securities” under, and otherwise comply with the requirements of, the Company’s current policy on cash and investments set forth on Schedule 1.01B hereto.

“Permitted IP Transfer” means (i) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of Radiant Systems, Inc. and its Subsidiaries or any other Person acquired by the Company after the Original Effective Date, in each case to NCR (Bermuda) Holdings LTD, or another Foreign Subsidiary complying with the requirements of clause (x) below and for consideration that may include promissory notes payable over a period not in excess of 10 years and (ii) by one or a series of related transactions, the sale, grant of licenses (including exclusive licenses), or transfer of ownership rights (including beneficial ownership rights) or rights to use or otherwise exploit in foreign jurisdictions the Intellectual Property of the Company or any Domestic Subsidiary to a Foreign Subsidiary; provided that, in the case of sales under this clause (ii), (a) any such sale is made for cash consideration paid by the acquiring Foreign Subsidiary to the Company or such Domestic Subsidiary, as the case may be, at the time of transfer in an amount not less than the fair market value of the Intellectual Property transferred; provided that up to \$35,000,000 of such consideration in the aggregate for all Permitted IP Transfers under this clause (ii) may consist of promissory notes that are required to be paid in full not later than the Term Maturity Date and up to \$10,000,000 of such consideration may consist of the issuance of Equity Interests of Foreign Subsidiaries and (b) the aggregate, cumulative fair market value of all such transferred Intellectual Property shall not exceed the greater of (1) \$100,000,000 and (2) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and provided, further, that in the case of all sales under clause (i) and (ii) of this definition, (x) the acquiring Foreign Subsidiary shall be (A) a Subsidiary of up to, but not including 66⅔% (and in any event at least 65%) of the outstanding voting Equity Interests, and all other Equity Interests, of which shall have been pledged pursuant to the Collateral Agreement or, where the Administrative Agent shall have so reasonably requested in accordance with the Collateral and Guarantee Requirement, a Foreign Pledge Agreement or (B) a direct or indirect wholly owned subsidiary of one or more Foreign Subsidiaries of the type described in the preceding clause (A) or Subsidiary Loan Parties, (y) no Liens (other than Permitted Encumbrances and Liens in favor of the Administrative Agent, for the benefit of the Secured Parties) shall exist on any such transferred Intellectual Property at the time of its transfer and (z) any license (including any license providing for a declining royalty) of such Intellectual Property or of rights to use such Intellectual Property entered into with or Guaranteed by the Company or any Subsidiary shall be on arms-length terms no less favorable to the Company or such Subsidiary than could be obtained in a transaction with an unaffiliated third party, as determined in good faith by the Company.

“Permitted Leverage Ratio” means

(a) prior to the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to March 31, 2021, (A) the sum of 4.50 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, (ii) in the case of any fiscal quarter ending after March 31, 2021, and on or prior to March 31, 2023, (A) the sum of 4.25 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00, and (iii) in the case of any fiscal quarter ending after March 31, 2023, (A) the sum of 4.00 plus the applicable Cumulative Leverage Ratio Increase Amount to (B) 1.00; provided that, following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters; provided, further, that, notwithstanding the foregoing, prior to the date of the consummation of the Specified Acquisition, the maximum Permitted Leverage Ratio, inclusive of all increases as a result of the Cumulative Leverage Ratio Increase Amount or any adjustment in connection with a Material Acquisition, shall at no time exceed 4.75 to 1.00; and

(b) from and after the date of the consummation of the Specified Acquisition, (i) in the case of any fiscal quarter ending on or prior to December 31, 2021, 5.50 to 1.00, (ii) in the case of any fiscal quarter ending on or prior to September 30, 2022, 5.25 to 1.00, and (iii) in the case of any fiscal quarter ending on or after December 31, 2022, 4.75 to 1.00; provided that, solely in the case of this clause (iii), following the consummation of a Material Acquisition that, on a Pro Forma Basis would result in an increase in the Leverage Ratio, if the Company shall so elect by a notice delivered to the Administrative Agent within 45 days after the end of the fiscal period in which the consummation of such Material Acquisition occurs or in connection with the delivery of a Compliance Certificate, whichever is sooner, the maximum Permitted Leverage Ratio shall be increased by 0.25 to 1.00 to 5.00 to 1.00 at the end of and for the fiscal quarter during which such Material Acquisition shall have been consummated and at the end of and for each of the following three consecutive fiscal quarters.

“Permitted Material Acquisition” means a Permitted Acquisition that is a Material Acquisition.

“Permitted Receivables Facility” means one or more facilities or individual transactions consisting of transfers on one or more occasions by the Company or any of its Subsidiaries (including through a Receivables Subsidiary) to any third-party buyer, purchaser or lender of interests in Receivables (including collections thereof and any related assets), so long as the sum of the aggregate outstanding principal amount of Third Party Interests incurred pursuant to such facilities or transactions and the principal amount of Receivables transferred and outstanding to any third-party buyer or purchaser does not exceed the greater of (x) \$500,000,000 and (y) 37.5% of the book value of the Company’s and its consolidated



Subsidiaries' Receivables as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof at any one time; provided, that (a) no portion of the Indebtedness or any other obligation (contingent or otherwise) under such Permitted Receivables Facility shall be guaranteed by the Company or any of its Subsidiaries except as permitted by the following clause (b), (b) there shall be no recourse or obligation to the Company or any of its Subsidiaries whatsoever other than (x) recourse solely attributable to any applicable Standard Receivables Undertakings and (y) recourse solely against the Company's or such Subsidiaries' retained interest in the Receivables Subsidiary which finances the acquisition of the relevant Receivables or residual values related thereto and (c) neither the Company nor any of its Subsidiaries shall have provided, either directly or indirectly, any credit support of any kind in connection with such Permitted Receivables Facility other than as set forth in clause (b) of this definition.

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

“Plan” means any “employee pension benefit plan”, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA and in respect of which the Borrower or any of its ERISA Affiliates is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” has the meaning set forth in Section 9.01(d).

“Pledge Agreement” has the meaning set forth in the Collateral Agreement.

“Pledge Effectiveness Period” means (i) the period commencing on the Effective Date (as defined in the Existing Credit Agreement) and ending on the first Investment Grade Date thereafter on which no Term Loans are outstanding and (ii) each subsequent period commencing on a Non-Investment Grade Date and ending on the next following Investment Grade Date.

“Post-Acquisition Period” means, with respect to any Material Acquisition or any Material Disposition, the period beginning on the date such transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such transaction is consummated.

“Prepayment Event” means:

(a) any Disposition (including pursuant to a Sale/Leaseback Transaction or by way of merger or consolidation) of any asset of the Company or any Subsidiary, including any sale or issuance to a Person other than the Company or any Subsidiary of Equity Interests in any Subsidiary, other than (i) Dispositions described in clauses (a) through (h) of Section 6.05, (ii) the Scheduled Dispositions and (iii) other Dispositions resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single

transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company;

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any asset of the Company or any Subsidiary other than any resulting in aggregate Net Proceeds not exceeding (A) \$25,000,000 in the case of any single transaction or series of related transactions and (B) \$50,000,000 for all such transactions during any fiscal year of the Company; or

(c) the incurrence by the Company or any Subsidiary of any Indebtedness, other than any Indebtedness permitted to be incurred by Section 6.01.

“Prime Rate” means the rate of interest last quoted by *The Wall Street Journal* as the “Prime Rate” in the United States or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board 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 Federal Reserve Board (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.

“Private Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that are not Public Side Lender Representatives.

“Pro Forma Adjustment” means, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, the pro forma increase or decrease in Consolidated EBITDA (including the portion thereof attributable to any assets (including Equity Interests) sold or acquired) projected by the Company in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of the assets acquired with the operations of the Company and the Subsidiaries or the applicable Disposition; provided that, so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, it may be assumed, for purposes of projecting such pro forma increase or decrease to Consolidated EBITDA, that such cost savings will be realizable during the entirety, or such additional costs, as applicable, will be incurred during the entirety of such Test Period; provided, further, that any such pro forma increase or decrease to Consolidated EBITDA shall be without duplication for cost savings or additional costs already included in Consolidated EBITDA for such Test Period.

“Pro Forma Basis”, “Pro Forma Compliance” and “Pro Forma Effect” means, with respect to compliance with any test or covenant hereunder required by the terms of this Agreement to be made on a Pro Forma Basis, that (a) to the extent applicable, the Pro Forma Adjustment shall have been made and (b) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of (or commencing with) the first day of the applicable period of measurement in such test or covenant: (i) income

statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction (A) in the case of a Material Disposition of all or substantially all Equity Interests in any Subsidiary of the Company or any division, product line, or facility used for operations of the Company or any of the Subsidiaries, shall be excluded, and (B) in the case of a Permitted Acquisition or Investment described in the definition of “Specified Transaction”, shall be included, (ii) any retirement of Indebtedness, (iii) any Indebtedness incurred or assumed by the Company or any of the Subsidiaries in connection therewith and (iv) if any such Indebtedness has a floating or formula rate, such Indebtedness shall be deemed to have accrued an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided that, without limiting the application of the Pro Forma Adjustment pursuant to clause (a) above, the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with (and subject to applicable limitations included in) the definition of Consolidated EBITDA and give effect to operating expense reductions that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Company and the Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of Pro Forma Adjustment; provided, further, that except as specified in the applicable provision requiring Pro Forma Compliance, any determination of Pro Forma Compliance required shall be made assuming that compliance with the financial covenant set forth in Section 6.12 is required with respect to the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Sections 5.01(a) or 5.01(b).

“Public Side Lender Representatives” means, with respect to any Lender, representatives of such Lender that do not wish to receive MNPI.

“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.

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

“QFC Credit Support” has the meaning set forth in Section 9.23.

“Qualified Equity Interests” means Equity Interests of the Company other than Disqualified Equity Interests.

“Qualifying Equity Proceeds” means on any date with respect to any expenditure to make a Restricted Payment under Section 6.08(a)(vi) or to make a payment in reliance on Section 6.08(b)(vi), the aggregate amount of Net Proceeds received by the Company in respect of sales and issuances of its Equity Interests (other than Disqualified Equity Interests and other than sales or issuances to directors, officers and employees) during the 270-day period ending on the date of such expenditure, less the amount of all other expenditures made during such period and on or prior to such date (i) for such purposes in reliance on such receipts of Net Proceeds or (ii) representing the use of such Net Proceeds to make Permitted Acquisitions or other Investments (other than Permitted Investments).

“Quotation Day” means, in respect of (a) the determination of the LIBO Rate for any Interest Period for Loans denominated in Dollars, the day that is two Business Days prior to the first day of such Interest Period; (b) the determination of the LIBO Rate for any Interest Period for Loans denominated in Sterling, the first day of such Interest Period; and (c) the determination of the EURIBO Rate for any Interest Period for Loans denominated in Euros, the day which is two Target2 Operating Days prior to the first day of such Interest Period; in each case unless market practice differs for loans in the applicable currency priced by reference to rates quoted in the relevant interbank market, in which case the Quotation Day for such currency shall be determined by the Administrative Agent in accordance with market practice for loans in such currency priced by reference to rates quoted in the relevant interbank market (and if quotations would normally be given by leading banks for loans in such currency priced by reference to rates quoted in the relevant interbank market on more than one day, the Quotation Day shall be the last of those days).

“Reaffirmation Documents” means such affirmations, reaffirmations, addenda, amendments or other modifying or confirmatory documents as the Administrative Agent shall deem appropriate in connection with confirming, maintaining and continuing the Guarantees by the Guarantor Loan Parties of the Obligations, and the Liens securing the Obligations, under the Existing Credit Agreement and the Security Documents thereunder as in effect prior to the effectiveness of this Agreement on the Effective Date, in each case in form and substance reasonably satisfactory to the Administrative Agent.

“Receivable” means any accounts receivable owed to or payable to the Company or a Subsidiary (whether now existing or arising or acquired in the future) arising in the ordinary course of business from the sale of goods or services, all collateral securing such accounts receivable, all contracts and contract rights and all guarantees or other obligations in respect of such accounts receivable, and all proceeds of such accounts receivable.

“Receivables Subsidiary” means a special purpose entity established as a “bankruptcy remote” Subsidiary for the purpose of acquiring Receivables (including collections thereof and any related assets) in connection with any Permitted Receivables Facility, which shall engage in no operations or activities other than those related to such Permitted Receivables Facility, including the issuance of Third Party Interests or other funding of such Permitted Receivables Facilities and activities reasonably related thereto

“Recipient” has the meaning set forth in Section 2.16(a).

“Refinancing Indebtedness” means, in respect of any Indebtedness (the “Original Indebtedness”), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof); provided that (a) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of such Original Indebtedness except by an amount no greater than accrued and unpaid interest with respect to such Original Indebtedness and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses relating to such extension, renewal or refinancing; (b) the stated final maturity of such Refinancing Indebtedness shall not be earlier than that of such Original Indebtedness, and such stated final maturity shall not be subject to any conditions that

could result in such stated final maturity occurring on a date that precedes the stated final maturity of such Original Indebtedness; (c) such Refinancing Indebtedness shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default or a change in control or as and to the extent such repayment, prepayment, redemption, repurchase or defeasance would have been required pursuant to the terms of such Original Indebtedness) prior to the earlier of (i) the maturity of such Original Indebtedness and (ii) the date 180 days after the latest Maturity Date in effect on the date of such extension, renewal or refinancing; provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated) of such Refinancing Indebtedness shall be permitted so long as the weighted average life to maturity of such Refinancing Indebtedness shall be longer than the shorter of (x) the weighted average life to maturity of such Original Indebtedness remaining as of the date of such extension, renewal or refinancing and (y) the weighted average life to maturity of each Class of the Term Loans remaining as of the date of such extension, renewal or refinancing (in each case, determined without giving effect to any prepayments that reduce amortization); (d) such Refinancing Indebtedness shall not constitute an obligation (including pursuant to a Guarantee) of any Subsidiary that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become) an obligor in respect of such Original Indebtedness, and shall not constitute an obligation of the Company if the Company shall not have been an obligor in respect of such Original Indebtedness, and, in each case, shall constitute an obligation of such Subsidiary or of the Company only to the extent of their obligations in respect of such Original Indebtedness; (e) if such Original Indebtedness shall have been subordinated to the Loan Document Obligations, such Refinancing Indebtedness shall also be subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders; and (f) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness (or would have been required to secure such Original Indebtedness pursuant to the terms thereof) or, in the event Liens securing such Original Indebtedness shall have been contractually subordinated to any Lien securing the Loan Document Obligations, by any Lien that shall not have been contractually subordinated to at least the same extent.

“Register” has the meaning set forth in Section 9.04(b)(iv).

“Regulated Bank” means an Approved Commercial Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Governors under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the directors, officers, partners, trustees, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Release” means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

“Release Date” means (i) if any Term Loans are outstanding on an Investment Grade Date, then the first date after the Investment Grade Date when no Term Loans are outstanding and prior to the occurrence of a Non-Investment Grade Date and (ii) if no Term Loans are outstanding on an Investment Grade Date, then such Investment Grade Date.

“Relevant Party” has the meaning set forth in Section 2.16(k)(i)(ii).

“Relevant Territory” means:

(a) a member state of the European Union other than Ireland; or

(b) a jurisdiction having a double taxation agreement (a “Treaty”) with Ireland which has the force of law under the procedures set out in section 826(1) of the TCA or, on completion of the procedures set out in section 826(1) of the TCA, will have the force of law.

“Removal Effective Date” has the meaning set forth in Article VIII.

“Repricing Transaction” means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Term Loans with the proceeds of any long-term bank financing or any other financing similar to such loans incurred or guaranteed by the Company or any Loan Party which reduces the effective yield (with the comparative determinations to be made by the Administrative Agent in a manner consistent with generally accepted financial practices, and in any event consistent with the calculation of the Weighted Average Yield) to less than the effective yield (as determined by the Administrative Agent on the same basis) applicable to such Term Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to, or consent under, this Agreement reducing the effective yield (to be determined by the Administrative Agent on the same basis as set forth in preceding clause (a)) of the Term Loans; provided that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver, modification or consent in connection with a Change in Control constitute a Repricing Transaction. Any determination by the Administrative Agent of any effective interest rate as contemplated by preceding clauses (a) and (b) shall be conclusive and binding on all Term Lenders, and the Administrative Agent shall have no liability to any Person with respect to such determination.

“Required Lenders” means, at any time, subject to Section 9.02(e). Lenders having Revolving Exposures, Term Loans and unused Commitments representing more than 50% of the sum of the Aggregate Revolving Exposure, outstanding Term Loans and unused Commitments at such time, in each case, excluding the Loans and Commitments of any Defaulting Lender.

“Requirements of Law” means, with respect to any Person, any statutes, laws, treaties, rules, regulations, orders, decrees, writs, injunctions or determinations of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Resolution Authority” means any body which has authority to exercise any Write-down and Conversion Powers.

“Restored Lender” has the meaning set forth in Section 2.19.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of, or any other return of capital with respect to, any Equity Interests in the Company or any Subsidiary (other than any dividend or other distribution payable solely in Equity Interests of the Company (other than Disqualified Equity Interests) or options to purchase Equity Interests of the Company (other than Disqualified Equity Interests)).

“Revolving Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Revolving Maturity Date and the date of termination of the Revolving Commitments.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Revolving Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.07, (b) increased or established from time to time pursuant to Section 2.20 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or the Incremental Facility Agreement pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. The initial aggregate amount of the Lenders’ Revolving Commitments as of the Effective Date is \$1,100,000,000.

“Revolving Exposure” means, with respect to any Lender at any time, the sum of the Dollar Equivalent of the outstanding principal amount of such Lender’s Revolving Loans and such Lender’s LC Exposure at such time.

“Revolving Lender” means a Lender with a Revolving Commitment or Revolving Exposure.

“Revolving Lender Parent” means, with respect to any Revolving Lender, any Person in respect of which such Lender is a subsidiary.

“Revolving Loan” means a Loan made pursuant to clause (b) of Section 2.01.

“Revolving Maturity Date” means August 28, 2024; provided that if such date is not a Business Day, the Revolving Maturity Date shall be the next preceding Business Day.

“S&P” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business.

“Sale/Leaseback Transaction” means an arrangement relating to property owned by the Company or any Subsidiary whereby the Company or such Subsidiary sells or transfers such property to any Person and the Company or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates.

“Sanctioned Country” means, at any time, a country, region or territory that is itself the subject or target of any country-wide or territory-wide Sanctions (at the Effective Date, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by or controlled by any Person or Persons described in the preceding clause (a) or (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom.

“Scheduled Dispositions” means the Dispositions to be effected after the Effective Date to the extent set forth in the letters provided to the Administrative Agent prior to the Effective Date.

“Scopus Industrial” means Scopus Industrial S/A, a Brazilian corporation and a wholly owned subsidiary of Scopus Tecnologia.

“Scopus Tecnologia” means Scopus Tecnologia Ltda., a Brazilian limited liability company.

“Screen Rate” means (a) in respect of the LIBO Rate for Dollars or Sterling for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of such rate) for such currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen that displays such rate (or, in the event such rate does not appear on such Thomson Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other



information services that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period and (b) in respect of the EURIBO Rate for any Interest Period, the Euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for such Interest Period as set forth on the Thomson Reuters screen page that displays such rate (currently EURIBOR01) (or, in the event such rate does not appear on a page of the Thomson Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion).

“SEC” means the United States Securities and Exchange Commission.

“Section 956 Impact” means any incremental tax liability resulting or anticipated to result from the application of Section 956 of the Code (determined without regard to any tax attributes), regardless of a CFC’s current or accumulated earning and profits (as defined within Section 312 of the Code).

“Secured Leverage Ratio” means, on any date, the ratio of (a) Consolidated Total Secured Debt as of such date to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters of the Company most recently ended on or prior to such date.

“Secured Parties” has the meaning set forth in the Collateral Agreement.

“Secured Performance Support Obligations” has the meaning set forth in the Collateral Agreement.

“Securities Act” means the United States Securities Act of 1933.

“Security Documents” means the Collateral Agreement, the Foreign Pledge Agreements, the IP Security Agreements, the Reaffirmation Documents, the Pledge Agreement and each other security agreement or other instrument or document executed and delivered pursuant to Sections 5.03 or 5.12 to secure the Obligations.

“Seller’s Retained Interests” means the debt or equity interests held by the Company or a Subsidiary in a Receivables Subsidiary to which Receivables have been transferred in a Permitted Receivables Facility permitted by Section 6.05, including any Intercompany Permitted Receivables Facility Note or equity received in consideration for the Receivables transferred.

“Senior Bridge Facility” means any senior [secured or](#) unsecured bridge loan facility provided by banks and other financial institutions to the Company to provide a portion of the cash consideration payable for a Permitted Material Acquisition.

“Senior Bridge Loans” means any bridge loans incurred in connection with a Permitted Material Acquisition.

“Series” has the meaning set forth in Section 2.20(b).

“Specified Acquisition” means the acquisition of Cardtronics plc, a public limited company incorporated in England and Wales (the “Target”), by the Company pursuant to that certain Acquisition Agreement, dated as of January 25, 2021, among the Company, the Target and Cardtronics USA, Inc., a Delaware corporation.

“Specified ECF Percentage” means, with respect to any fiscal year of the Company, (a) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 2.25 to 1.00, 50%, (b) if the Secured Leverage Ratio as of the last day of such fiscal year is greater than 1.50 to 1.00 but less than or equal to 2.25 to 1.00, 25%, and (c) if the Secured Leverage Ratio as of the last day of such fiscal year is less than or equal to 1.50 to 1.00, 0%.

“Specified Representations” means the representations and warranties set forth in Sections 3.01(a) (solely with respect to the Company; and each Foreign Borrower ~~and each Material Subsidiary~~), 3.02, 3.03(c) (solely with respect to the Loan Parties), 3.03(d) (solely with respect to this Agreement and any then-existing indentures), other than with regard to any agreements governing Indebtedness being repaid in connection with the applicable Limited Condition Acquisition), 3.08, 3.12, 3.14, 3.15 and 3.16 (solely with respect to the use of proceeds).

“Specified Time” means (a) with respect to the LIBO Rate, 11:00 a.m., London time, and (b) with respect to the EURIBO Rate, 11:00 a.m., Brussels time.

“Specified Transaction” means, with respect to any period, any Investment, Disposition, incurrence or repayment of Indebtedness or Restricted Payment that by the terms of this Agreement requires “Pro Forma Compliance” with a test or covenant hereunder or requires such test or covenant to be calculated on a “Pro Forma Basis”.

“Standard Receivables Undertakings” means any representations, warranties, covenants and indemnities made by, and repurchase and other obligations of, the Company or a Subsidiary that are customary for a seller or servicer of assets transferred in connection with a Permitted Receivables Facility, as determined in good faith by the Company or such Subsidiary.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves), expressed as a decimal, established by the Board of Governors to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board of Governors). Such reserve percentage shall include those imposed pursuant to such Regulation D. Eurocurrency Loans denominated in Dollars shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Sterling” or “£” means lawful currency of the United Kingdom.

“Subordinated Indebtedness” of any Person means any Indebtedness of such Person that is subordinated in right of payment to any other Indebtedness of such Person.

“Subsequent Maturity Date” has the meaning set forth in Section 2.04(c).

“subsidiary” means, with respect to any Person (the “parent”) at any date, (a) any Person the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date and (b) any other Person (i) of which Equity Interests representing more than 50% of the equity value or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (ii) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Company.

“Subsidiary Loan Party” means each Subsidiary that is a “Grantor” or “Guarantor” under and as defined in the Collateral Agreement. Notwithstanding anything to the contrary, no CFC shall be a Subsidiary Loan Party. Pursuant to Section 9.14(e), as of the Effective Date, Radiant Payment Services, LLC will no longer be a Subsidiary Loan Party.

“Supplier” has the meaning set forth in Section 2.16(k)(ii).

“Supported QFC” has the meaning set forth in Section 9.23.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of real or personal property, or a combination thereof, (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee is deemed to own the property so leased for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” means, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease (determined, in the case of a Synthetic Lease providing for an option to purchase the leased property, as if such purchase were required at the end of the term thereof) that would appear on a balance sheet of such Person prepared in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations. For purposes of Section 6.02, a Synthetic Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Target” has the meaning given thereto in the definition of “Specified Acquisition”.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system.

“Target2 Operating Day” means any day (other than a Saturday or Sunday) on which both (a) TARGET2 (or, if TARGET2 ceases to be operative, such other payment system as shall be determined by the Administrative Agent to be a replacement therefor for purposes hereof) is open for the settlement of payments in Euros and (b) banks in London, England are open for general business.

“Tax Administrative Questionnaire” means a Tax Administrative Questionnaire in a form supplied by the Administrative Agent.

“Taxes” means any present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

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

“Term Commitment” means, with respect to each Lender, such Lender’s Delayed Draw Term Commitment and Initial Term Commitment, as such commitment may be (a) reduced from time to time pursuant to Section 2.07 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Term Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Term Commitment, as applicable. The initial aggregate amount of the Lenders’ Term Commitments as of the Effective Date is \$750,000,000.

“Term Lender” means a Lender with a Term Commitment or an outstanding Term Loan.

“Term Loans” means the Delayed Draw Term Loans and the Initial Term Loans.

“Term Maturity Date” means August 28, 2026; provided that if such date is not a Business Day, the Term Maturity Date shall be the next preceding Business Day.

“Test Period” means, at any date of determination, the period of four consecutive fiscal quarters of the Company then last ended.

“Third Party Interests” means, with respect to any Permitted Receivables Facility, notes, bonds or other debt instruments, beneficial interests in a trust, undivided ownership interests in Receivables or other securities issued for cash consideration by the relevant Receivables Subsidiary to banks, financing conduits, investors or other financing sources (other than the Company and the Subsidiaries) the proceeds of which are used to finance, in whole or in part, the purchase by such Receivables Subsidiary of Receivables in a Permitted Receivables Facility. The amount of any Third Party Interests at any time shall be deemed to equal the aggregate principal, stated or invested amount of such Third Party Interests which are outstanding at such time.

“Transaction Costs” means the fees and expenses incurred in connection with the Transactions.

“Transactions” means the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance and use of Letters of Credit under this Agreement.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Eurocurrency Rate or the Alternate Base Rate.

“UK Bail-In Legislation” means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

“UK Borrower” means any Borrower (i) that is organized or formed under the laws of the United Kingdom or (ii) payments from which under this Agreement or any other Loan Document are subject to withholding Taxes imposed by the laws of the United Kingdom.

“UK Borrower DTTP Filing” means an HMRC Form DTTP2 duly completed and filed by the relevant Loan Party, which:

(a) where it relates to a UK Treaty Lender that is a Lender on the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence opposite that Lender’s name in Schedule 1.1(i), and

(i) where the Loan Party is a Loan Party on the date of this Agreement, is filed with HMRC within 30 Business Days after the date of this Agreement; or

(ii) where the Loan Party becomes a Loan Party after the date of this Agreement, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement; or

(b) where it relates to a UK Treaty Lender that becomes a Lender after the Effective Date, contains the scheme reference number and jurisdiction of tax residence in the relevant Assignment and Assumption Agreement, and

(i) where the Loan Party is a Loan Party on the date such UK Treaty Lender becomes a Lender under this Agreement (“New Lender Date”), is filed with HMRC within 30 Business Days after the New Lender Date; or

(ii) where the Loan Party becomes a Loan Party under this Agreement after the New Lender Date, is filed with HMRC within 30 Business Days after the date on which that Loan Party becomes a Loan Party under this Agreement.

“UK Corporation Tax Act” means the Corporation Tax Act 2009 of the United Kingdom.

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

(a) a Lender:

(i) which is a bank (as defined for the purpose of section 879 of the UK Taxes Act) making an advance under a Loan Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payment apart from section 18A of the UK Corporation Tax Act; or

(ii) in respect of an advance made under a Loan Document by a person that was a bank (as defined for the purpose of section 879 of the UK Taxes Act) at the time that that advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(b) a Lender which is:

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

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

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

(c) a UK Treaty Lender.

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

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

(b) a partnership each member of which is (A) a company resident in the United Kingdom or (B) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into

account in computing its chargeable profits (within the meaning of section 19 of the UK Corporation Tax Act) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the UK Corporation Tax Act; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (for the purposes of section 19 of the UK Corporation Tax Act) of that company.

“UK Taxes Act” means the Income Tax Act 2007 of the United Kingdom.

“UK Treaty Lender” means a Lender which is treated as a resident of a UK Treaty State for the purposes of the Treaty, does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Loan is effectively connected and, subject to the completion of procedural formalities, meets all other conditions in the UK Treaty for full exemption from tax imposed by the United Kingdom.

“UK Treaty State” means a jurisdiction having a double taxation agreement (a “UK Treaty”) with the United Kingdom, which makes provision for full exemption from tax imposed by the United Kingdom on interest.

“Uniform Commercial Code” means the New York Uniform Commercial Code.

“Unrestricted Cash” means, as of any date, unrestricted cash and cash equivalents owned by the Company and the Subsidiaries that are not, and are not presently required under the terms of any agreement or other arrangement binding on the Company or any Subsidiary on such date to be, (a) pledged to or held in one or more accounts under the control of one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations), (b) otherwise segregated from the general assets of the Company and the Subsidiaries, in one or more special accounts or otherwise, for the purpose of securing or providing a source of payment for Indebtedness or other obligations that are or from time to time may be owed to one or more creditors of the Company or any Subsidiary (other than to secure the Loan Document Obligations) or (c) held by a Subsidiary that is not wholly-owned or that is subject to restrictions (in the case of foreign laws or approvals of foreign Governmental Authorities applicable to Foreign Subsidiaries, of which the Company has actual knowledge) on its ability to pay dividends or distributions; provided that Unrestricted Cash on any date will include the pro rata share (based on their relative holdings of Equity Interests entitled to dividends and distributions) of the Company and its wholly-owned Subsidiaries of the Unrestricted Cash of any non-wholly Subsidiary not subject to such restrictions. It is agreed that cash and cash equivalents held in ordinary deposit or security accounts and not subject to any existing or contingent restrictions on transfer by the Company or a Subsidiary will not be excluded from Unrestricted Cash by reason of setoff rights or other Liens created by law or by applicable account agreements in favor of the depository institutions or security intermediaries.

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

“U.S. Special Resolution Regime” has the meaning set forth in Section 9.23.

“U.S. Tax Certificate” has the meaning set forth in Section 2.16(f)(ii)(D)(2).

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

“VAT” means: (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/122); and (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

“Weighted Average Yield” means, at any time, with respect to any Loan, the weighted average yield to stated maturity of such Loan based on the interest rate or rates applicable thereto and giving effect to all upfront or similar fees or original issue discount payable to the Lenders advancing such Loan with respect thereto and to any interest rate “floor”. For purposes of determining the Weighted Average Yield of any floating rate Indebtedness at any time, the rate of interest applicable to such Indebtedness at such time shall be assumed to be the rate applicable at all times prior to maturity; provided that appropriate adjustments shall be made for any changes in rates of interest provided for in the documents governing such Indebtedness (other than those resulting from fluctuations in interbank offered rates, prime rates, Federal funds rates or other external indices not influenced by the financial performance or creditworthiness of the Company or any other Subsidiary). Determinations of the Weighted Average Yield of any Loans for purposes of Section 2.20 shall be made by the Administrative Agent at the request of the Company and in a manner determined by the Administrative Agent to be consistent with accepted financial practice, and any such determination shall be conclusive, absent manifest error.

“wholly-owned”, when used in reference to a subsidiary of any Person, means that all the Equity Interests in such subsidiary (other than directors’ qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly-owned subsidiary of such Person or any combination thereof.

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

“Withholding Agent” means any Loan Party or the Administrative Agent.

“Write-Down and Conversion Powers” means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;



(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation; and

(c) in relation to any UK Bail-In Legislation:

(i) any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that UK Bail-In Legislation.

#### SECTION 1.02. Classification of Loans and Borrowings

For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Class (e.g., a “Revolving Loan” or “Revolving Borrowing”) or by Type (e.g., a “Eurocurrency Loan” or “Eurocurrency Borrowing”) or by Class and Type (e.g., a “Eurocurrency Revolving Loan” or “Eurocurrency Revolving Borrowing”).

#### SECTION 1.03. Terms Generally

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law

or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) references to "the date hereof" and "the date of this Agreement" shall be deemed to refer to the Effective Date.

(b) In this Agreement, where it relates to a Dutch entity, a reference to:

(i) a necessary action to authorise, where applicable, includes without limitation:

(A) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and

(B) obtaining unconditional positive advice (*advies*) from each competent works council and, if such advice is not unconditional, confirmation from the Company that the conditions set by the works' council are and will be complied with;

(ii) a winding-up, administration or dissolution includes a Dutch entity being:

(A) declared bankrupt (*failliet verklaard*);

(B) dissolved (*ontbonden*);

(iii) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;

(iv) an administrator includes a *bewindvoerder*;

(v) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(vi) an attachment includes a *beslag*.

#### SECTION 1.04. Accounting Terms; GAAP; Pro Forma Calculations

(a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed in accordance with GAAP as in effect from time to time; provided that (i) if the Company, by notice to the Administrative Agent, shall request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent or the Required Lenders, by notice to the Company, shall request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith and (ii) notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, (A) without giving effect to (I) any election under Statement of Financial Accounting Standards 159, The Fair Value Option for Financial Assets and Financial Liabilities, or any successor thereto (including pursuant to the Accounting Standards Codification), or under any similar accounting standard, to value any Indebtedness of the Company or any Subsidiary at “fair value” or any similar valuation standard, as defined therein and (II) unless the Company notifies the Administrative Agent in writing of its election to cease doing so (which notice shall be included as part of a Compliance Certificate), any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842) (“FAS 842”), to the extent such adoption would require (x) treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2015 or (y) recognizing liabilities on the balance sheet with respect to operating leases under FAS 842, and (B) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. For purposes of the foregoing, any change by the Company in its accounting principles and standards to adopt International Financial Reporting Standards, regardless of whether required by applicable laws and regulations, will be deemed a change in GAAP.

(b)[Reserved]

(c) For purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Material Acquisition or Material Disposition occurs, Consolidated EBITDA, the Leverage Ratio and the Secured Leverage Ratio shall be calculated with respect to such period and with respect to such Material Acquisition or Material Disposition on a Pro Forma Basis. In the event that the Revolving Commitments are terminated (whether at maturity or otherwise), any provision herein requiring pro forma compliance with Section 6.12 (including by a level determined by reference to Section 6.12) will be deemed to refer to the financial covenant in Section 6.12 most recently in effect prior to such termination.

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Notwithstanding the foregoing, none of the Company, the Administrative Agent and the Required Lenders may give a notice requesting any amendment pursuant to clause (i) of the proviso to the first sentence of this Section in respect of the proposed or actual adoption by the Company of Mark-to-Market Pension Accounting as permitted by Accounting Standards Codification (ASC) 715-30, unless the accounting principles or application thereof proposed to be adopted or adopted, as the case may be, or the consequences of such adoption, differ materially from those described in the definition of “Mark-to-Market Pension Accounting” herein, including the description set forth in Annex A.

#### SECTION 1.05. Status of Obligations

2. In the event that the Company or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Company shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Loan Document Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Loan Document Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” under and in respect of any indenture or other agreement or instrument under which such other Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

#### SECTION 1.06. Currency Translation

2. (a) The Administrative Agent shall determine the Dollar Equivalent of any Letter of Credit denominated in Euros or Sterling as of the date of the issuance thereof and as of each subsequent date on which such Letter of Credit shall be renewed or extended or the stated amount of such Letter of Credit shall be increased, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Letter of Credit until the earlier of the next required calculation thereof pursuant to this Section 1.06(a) and the next calculation thereof pursuant to Section 1.06(c).

(b) The Administrative Agent shall determine the Dollar Equivalent of any Borrowing denominated in Euros or Sterling as of the date of the commencement of the initial Interest Period therefor and as of the date of the commencement of each subsequent Interest Period therefor, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date that is three Business Days prior to the date on which the applicable Interest Period shall commence, and each such amount shall be the Dollar Equivalent of such Borrowing until the earlier of the next required calculation thereof pursuant to this Section 1.06(b) and the next calculation thereof pursuant to Section 1.06(c).

(c)The Administrative Agent may, at its election, determine the Dollar Equivalent of any Borrowing or Letter of Credit denominated in Euros or Sterling on any other Business Day.

(d)The Administrative Agent shall notify the Borrowers, the applicable Lenders and the applicable Issuing Bank of each calculation of the Dollar Equivalent of each Letter of Credit, Borrowing and LC Disbursement.

(e)Notwithstanding any other provision of this Agreement, amounts denominated in a currency other than Dollars will be converted to Dollars for the purposes of calculating the Leverage Ratio and the Secured Leverage Ratio at the exchange rates then used by the Company in its financial statements.

(f)Where the permissibility of a transaction (other than the issuance or incurrence of Indebtedness, which shall be subject to the following paragraph (g)), depends upon compliance with, or is determined by reference to, amounts stated in Dollars, any amount in respect of such transaction stated in another currency shall be translated to Dollars at the Exchange Rate then in effect at the time such transaction is entered into and the permissibility of actions taken hereunder shall not be affected by subsequent fluctuations in exchange rates.

(g)For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar Equivalent principal amount of Indebtedness denominated in a currency other than Dollars shall be calculated based on the relevant Exchange Rate in effect on the date such Indebtedness was incurred, in the case of Indebtedness (other than revolving credit debt), or on the date when the commitments thereunder are first available to be drawn, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a currency other than Dollars, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant Exchange Rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased except by an amount no greater than accrued and unpaid interest thereon and any existing unutilized commitments thereunder and any reasonable fees, premium and expenses related thereto. The principal amount in Dollars of any Indebtedness incurred to extend, replace, refund, refinance, renew or defease other Indebtedness, if incurred in a different foreign currency from the Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, shall be calculated by the Administrative Agent based on the Exchange Rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance.

#### SECTION 1.07. Borrower Agent

. Each Foreign Borrower hereby appoints the Company as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of financial reports, receipt and payment of Loan Document Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with the Administrative Agent, the Issuing Banks or any Lender, and each Foreign Borrower releases the Company from any restrictions on representing several Persons and self-dealing under any applicable Requirements of Law (the Company, acting on its behalf and on behalf of any Foreign Borrower pursuant to such agency, the “Borrower Agent”). The Company hereby accepts such appointment as representative and agent of each Foreign Borrower. Notwithstanding any other provision of this Agreement:

(a) the Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Borrowing Request or any Interest Election Request) delivered on behalf of a Foreign Borrower by the Borrower Agent;

(b) the Administrative Agent, the Issuing Banks and the Lenders may give any notice to or make any other communication with any Foreign Borrower hereunder to or with the Borrower Agent;

(c) the Administrative Agent, the Issuing Banks and the Lenders shall have the right, in its discretion, to deal exclusively with the Borrower Agent for any or all purposes under the Loan Documents; and

(d) each Foreign Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by the Borrower Agent shall be binding upon and enforceable against it.

#### SECTION 1.08. Obligations Joint and Several

. Each agreement in any Loan Document by any Foreign Borrower to make any payment, to take any action or otherwise to be bound by the terms thereof is a joint and several agreement of all the Foreign Borrowers, and each obligation of any Foreign Borrower under any Loan Document shall be a joint and several obligation of all the Foreign Borrowers. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, no Foreign Borrower shall be jointly and severally liable with the Company or any Domestic Subsidiary for any Obligation pursuant to any Loan Document.

#### SECTION 1.09. Interest Rates; LIBOR Notification

. The interest rate on Eurocurrency Loans is determined by reference to the LIBO Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks

to make rate submissions to the ICE Benchmark Administration Limited (together with any successor to the ICE Benchmark Administration Limited, the “IBA”) for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, commencing in 2022, the London interbank offered rate may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurocurrency Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 2.13(b), such Section provides a mechanism for determining an alternative rate of interest. The Administrative Agent will notify the Company, pursuant to Section 2.13, in advance of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, the Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the London interbank offered rate or other rates in the definition of the term “LIBO Rate” or with respect to any alternative or successor rate thereto, or replacement rate thereof, including whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 2.13(b), will be similar to, or produce the same value or economic equivalence of, the LIBO Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

#### SECTION 1.10. Divisions

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

### ARTICLE II

#### The Credits

#### SECTION 2.01. Commitments

Subject to the terms and conditions set forth herein, each Lender agrees (a) to make an Initial Term Loan in Dollars to the Company on the Effective Date in an aggregate principal amount not exceeding its Initial Term Commitment, (b) to make a Delayed Draw Term Loan in Dollars to the Company at any time on or after the Effective Date and on or prior to December 31, 2019, in an aggregate principal amount not exceeding its Delayed Draw Term Commitment and (c) to make Revolving Loans denominated in Dollars, Euros or Sterling to the Borrowers from time to time during the Revolving Availability Period in an aggregate principal amount that will not result in (i) such Lender’s Revolving Exposure exceeding such Lender’s Revolving Commitment, (ii) the Aggregate Revolving Exposure exceeding the Aggregate Revolving

Commitment or (iii) the Foreign Borrower Exposure exceeding \$400,000,000. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

#### SECTION 2.02. Loans and Borrowings

(a) Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class, Type and currency made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. The Initial Term Loans and the Delayed Draw Term Loans shall, upon funding, constitute a single Class of Term Loans hereunder.

(b) Subject to Section 2.13, (i) each Borrowing denominated in Dollars shall be comprised entirely of ABR Loans or Eurocurrency Loans, as the applicable Borrower, or the Borrower Agent on its behalf, may request in accordance herewith, (ii) each Borrowing denominated in Euros or Sterling shall be comprised entirely of Eurocurrency Loans and (iii) each Borrowing by a Foreign Borrower shall be comprised entirely of Eurocurrency Loans; provided that all Borrowings made on the Effective Date must be made by the Company as ABR Borrowings unless the applicable Borrower, or the Borrower Agent on its behalf, shall have given the notice required for a Eurocurrency Borrowing under Section 2.03 and provided an indemnity letter, in form and substance reasonably satisfactory to the Administrative Agent, extending the benefits of Section 2.15 to the Lenders in respect of such Borrowings. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurocurrency Borrowing, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that (i) a Eurocurrency Borrowing that results from a continuation of an outstanding Eurocurrency Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing and (ii) a Eurocurrency Borrowing denominated in Euros or Sterling may be in the amount that is required to finance the reimbursement of an LC Disbursement denominated in such currency as contemplated by Section 2.04(f) or in an amount that is equal to the difference between \$400,000,000 and the Foreign Borrower Exposure prior to giving effect to such Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Revolving Commitment or that is required to finance the reimbursement of an LC Disbursement denominated in Dollars as contemplated by Section 2.04(f). Borrowings of more than one Type, Class and currency may be outstanding at the same time; provided that there shall not at any time be more than a total of 15 (or such



greater number as may be agreed to by the Administrative Agent) Eurocurrency Borrowings outstanding.

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

#### SECTION 2.03. Requests for Borrowings

To request a Revolving Borrowing or Term Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such request by delivery of an executed written Borrowing Request (a) in the case of a Eurocurrency Borrowing denominated in Dollars, not later than 10:00 a.m., Local Time, two Business Days before the date of the proposed Borrowing, (b) in the case of a Eurocurrency Borrowing denominated in Euros or Sterling, not later than 10:00 a.m., Local Time, three Business Days before the date of the proposed Borrowing or (c) in the case of an ABR Borrowing, not later than 3:00 p.m., New York City time, on the day of the proposed Borrowing. Each such written Borrowing Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

(i) the Borrower of such Borrowing;

(ii) whether the requested Borrowing is to be a Term Borrowing, an Incremental Term Borrowing of a particular Series or a Revolving Borrowing;

(iii) the currency and aggregate amount of such Borrowing;

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

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

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

(vii) the location and number of the account of the applicable Borrower (or the applicable Borrower's designee) to which funds are to be disbursed or, in the case of any ABR Revolving Borrowing requested to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), the identity of the Issuing Bank that made such LC Disbursement.

If no election as to the Type of Borrowing is specified, then, if the specified currency of such Borrowing is (a) Dollars, the requested Borrowing shall be an ABR Borrowing, and (b) Euros or Sterling, the requested Borrowing shall be a Eurocurrency Borrowing. If no currency is

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

#### SECTION 2.04. Letters of Credit

(a) General. Subject to the terms and conditions set forth herein, each Borrower may request the issuance of Letters of Credit for its own account or, so long as the Company is a joint and several co-applicant with respect thereto, the account of any Subsidiary, denominated in Dollars, Euros or Sterling and in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Revolving Availability Period. The Company unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the account of any Subsidiary as provided in the first sentence of this paragraph, it will be fully responsible for the reimbursement of LC Disbursements, the payment of interest thereon and the payment of fees due under Section 2.11(b) to the same extent as if it were the sole account party in respect of such Letter of Credit. Each Existing Letter of Credit shall be deemed, for all purposes of this Agreement (including paragraphs (d) and (f) of this Section), to be a Letter of Credit issued hereunder for the account of the applicable Borrower. Notwithstanding anything contained in any letter of credit application furnished to any Issuing Bank in connection with the issuance of any Letter of Credit, (i) all provisions of such letter of credit application purporting to grant liens in favor of the Issuing Bank to secure obligations in respect of such Letter of Credit shall be disregarded, it being agreed that such obligations shall be secured to the extent provided in this Agreement and in the Security Documents, and (ii) in the event of any inconsistency between the terms and conditions of such letter of credit application and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, the Borrowers shall not request, and no Issuing Bank shall have any obligation to issue, any Letter of Credit the proceeds of which would be made available to any Person (A) to fund any activity or business of or with any Sanctioned Person, or in any Sanctioned Country, in each case except to the extent permissible for a Person required to comply with Sanctions, or (B) in any manner that would result in a violation of any Sanctions by any party to this Agreement.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit or the amendment, renewal or extension of an outstanding Letter of Credit, the applicable Borrower, or the Borrower Agent on its behalf, shall hand deliver or fax (or transmit by electronic communication, if arrangements for doing so have been approved by the recipient) to the applicable Issuing Bank and the Administrative Agent, reasonably in advance of the requested date of issuance, amendment, renewal or extension, a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the requested date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is

to expire (which shall comply with paragraph (c) of this Section), the amount and currency of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to enable the applicable Issuing Bank to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the applicable Borrower, or the Borrower Agent on its behalf, also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any such request. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon each issuance, amendment, renewal or extension of any Letter of Credit the Company shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment and (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment. The Company may, at any time and from time to time, reduce the LC Commitment of any Issuing Bank with the consent of such Issuing Bank; provided that the Company shall not reduce the LC Commitment of any Issuing Bank if, after giving effect to such reduction, the conditions set forth in clause (ii) above shall not be satisfied. Each Issuing Bank agrees that it shall not permit any issuance, amendment, renewal or extension of a Letter of Credit to occur unless it shall have given to the Administrative Agent written notice thereof required under paragraph (l) of this Section.

An Issuing Bank shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing the Letter of Credit, or any law, rule or regulation applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which such Issuing Bank in good faith deems material to it; or (ii) the issuance of the Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally.

(c)Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) unless otherwise consented to by the applicable Issuing Bank and (ii) the date that is five Business Days prior to the Revolving Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the applicable Borrower, or the Borrower Agent on its behalf, and the applicable Issuing Bank pursuant to which the expiration date of such Letter of Credit shall automatically be extended for a period of up to 12 months (but not to a date later than the date set forth in clause (ii) above), subject to a right on the part of such Issuing Bank to prevent any such renewal from occurring by giving notice to the beneficiary in

advance of any such renewal; and provided, further, that if there exist any Incremental Revolving Commitments having a maturity date later than the Revolving Maturity Date (the “Subsequent Maturity Date”), then, so long as the aggregate LC Exposure in respect of Letters of Credit expiring after the Revolving Maturity Date will not exceed the lesser of \$50,000,000 and the aggregate amount of such Incremental Revolving Commitments, the applicable Borrower, or the Borrower Agent on its behalf, may request the issuance of a Letter of Credit that shall expire at or prior to the close of business on the earlier of (A) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (B) the date that is five Business Days prior to the Subsequent Maturity Date. Notwithstanding the foregoing, any Letter of Credit issued hereunder may, in the sole discretion of the applicable Issuing Bank, expire after the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date) but on or before the date that is 90 days after the Revolving Maturity Date (or the Subsequent Maturity Date); provided that each Borrower hereby agrees that it shall in the case of any such Letter of Credit issued for its account provide cash collateral in an amount equal to 102% of the LC Exposure in respect of any such outstanding Letter of Credit to the applicable Issuing Bank at least five Business Days prior to the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), which such amount shall be (A) deposited by the applicable Borrower in an account with and in the name of such Issuing Bank and (B) held by such Issuing Bank for the satisfaction of the applicable Borrower’s reimbursement obligations in respect of such Letter of Credit until the expiration of such Letter of Credit. Any Letter of Credit issued with an expiration date beyond the fifth Business Day prior to the Revolving Maturity Date (or the Subsequent Maturity Date, as applicable) shall, to the extent of any undrawn amount remaining thereunder on the Revolving Maturity Date (or the Subsequent Maturity Date, if applicable), cease to be a “Letter of Credit” outstanding under this Agreement for purposes of the Revolving Lenders’ obligations to participate in Letters of Credit pursuant to clause (d) below.

(d)Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or any Revolving Lender, the Issuing Bank that is the issuer thereof hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender’s Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Revolving Lender’s Applicable Percentage of each LC Disbursement made by such Issuing Bank under such Letter of Credit and not reimbursed by the applicable Borrower on the date due as provided in paragraph (f) of this Section, or of any reimbursement payment required to be refunded to a Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or any reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender further acknowledges and agrees

that, in issuing, amending, renewing or extending any Letter of Credit, the applicable Issuing Bank shall be entitled to rely, and shall not incur any liability for relying, upon the representation and warranty of the applicable Borrower deemed made pursuant to Section 4.02.

(e)Disbursements. Each Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit and shall promptly notify the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, by telephone (confirmed by hand delivery or facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(f)Reimbursements. If an Issuing Bank shall make an LC Disbursement in respect of a Letter of Credit, the applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement, in the currency in which such LC Disbursement is made, not later than 12:00 noon, Local Time, on the Business Day immediately following the day that the applicable Borrower, or the Borrower Agent on its behalf, receives notice of such LC Disbursement; provided that, if the amount of such LC Disbursement is not greater than the amount then available to be borrowed as a Revolving Borrowing by the applicable Borrower, the applicable Borrower, or the Borrower Agent on its behalf, may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with a Revolving Borrowing, in an amount equal to the amount of such LC Disbursement and, to the extent so financed, the applicable Borrower's obligation to make such payment shall be discharged and replaced by the resulting Revolving Borrowing. If the applicable Borrower fails to reimburse any LC Disbursement by the time specified above, the Administrative Agent shall notify each Revolving Lender of such failure, the payment then due from the applicable Borrower in respect of the applicable LC Disbursement and such Revolving Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the amount then due from the applicable Borrower in the applicable currency, in the same manner as provided in Section 2.05 with respect to Loans made by such Lender (and Section 2.05 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the applicable Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Revolving Lenders and such Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse an Issuing Bank for an LC Disbursement (other than the funding of an ABR Revolving Borrowing as contemplated above) shall not constitute a Loan and shall not relieve the applicable Borrower of its obligation to reimburse such LC Disbursement.

(g)Obligations Absolute. The applicable Borrower's obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section is absolute, unconditional and

irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision thereof or hereof, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this paragraph, constitute a legal or equitable discharge of, or provide a right of setoff against, the applicable Borrower's obligations hereunder. None of the Administrative Agent, the Lenders, the Issuing Banks or any of their Related Parties shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any other act, failure to act or other event or circumstance; provided that the foregoing shall not be construed to excuse any Issuing Bank from liability to the applicable Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by each Borrower to the extent permitted by applicable law) suffered by a Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of bad faith, gross negligence or willful misconduct on the part of an Issuing Bank (as determined by a court of competent jurisdiction in a final and nonappealable judgment), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented that appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h)Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the applicable Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the applicable Borrower reimburses such LC Disbursement in full, (i) in the case of any LC Disbursement denominated in Dollars, at the rate per annum then applicable to ABR Revolving Loans, and (ii) in the case of any LC Disbursement denominated in Euros or Sterling, at the Overnight Eurocurrency Rate plus the Applicable Rate then applicable to Eurocurrency Revolving Loans; provided that, if the applicable Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (f) of this Section, then Section 2.12(c) shall apply. Interest accrued pursuant to this paragraph shall be paid to the Administrative Agent, for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any

Revolving Lender pursuant to paragraph (f) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment, and shall be payable on demand or, if no demand has been made, on the date on which the applicable Borrower reimburses the applicable LC Disbursement in full.

(i)Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrowers or the Borrower Agent receive notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, a Majority in Interest of the Revolving Lenders) demanding the deposit of cash collateral pursuant to this paragraph, each Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the portion of the LC Exposure attributable to each Letter of Credit issued for the account of such Borrower and outstanding on such date, plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (i) or (j) of Article VII. Amounts payable under the preceding sentence in respect of any Letter of Credit or LC Disbursement shall be payable in the currency of such Letter of Credit or LC Disbursement. The Borrowers also shall deposit cash collateral in accordance with this paragraph as and to the extent required by Section 2.10(b) or 2.19. Each such deposit by any Borrower shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of such Borrower under this Agreement and the other Loan Documents. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made as mutually agreed by the Administrative Agent and the applicable Borrower, or the Borrower Agent on its behalf, and at the applicable Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the applicable Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of a Majority in Interest of the Revolving Lenders), be applied to satisfy other obligations of the applicable Borrower under this Agreement. If a Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three Business Days after all Events of Default have been cured or waived. If a Borrower is required to provide an amount of cash collateral hereunder pursuant to Section 2.10(b), such amount (to the extent not applied as aforesaid) shall be returned to such Borrower as and to the extent that, after giving effect to such return, the Aggregate Revolving Exposure would not exceed the Aggregate Revolving Commitment and no Default shall have occurred and be continuing.

(j)Designation of Additional Issuing Banks. The Company may, at any time and from time to time, with the consent of the Administrative Agent (which consent shall not be

unreasonably withheld), designate as additional Issuing Banks one or more Revolving Lenders that agree to serve in such capacity as provided below. The acceptance by a Revolving Lender of an appointment as an Issuing Bank hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent, executed by the Company, the Administrative Agent and such designated Revolving Lender and, from and after the effective date of such agreement, (i) such Revolving Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein to the term “Issuing Bank” shall be deemed to include such Revolving Lender in its capacity as an issuer of Letters of Credit hereunder.

(k)Termination of an Issuing Bank. The Company may terminate the appointment of any Issuing Bank as an “Issuing Bank” hereunder by providing a written notice thereof to such Issuing Bank, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Issuing Bank acknowledging receipt of such notice and (ii) the 10th Business Day following the date of the delivery thereof; provided that no such termination shall become effective until and unless the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (or its Affiliates) shall have been reduced to zero. At the time any such termination shall become effective, the Company shall pay all unpaid fees accrued for the account of the terminated Issuing Bank pursuant to Section 2.11(b). Any Issuing Bank that ceases to be a Lender for any reason shall concurrently cease to be an Issuing Bank. Notwithstanding the effectiveness of any such termination, the terminated Issuing Bank shall remain a party hereto and shall continue to have all the rights of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such termination, but shall not issue any additional Letters of Credit.

(l)Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) reasonably prior to the time that such Issuing Bank issues, amends, renews or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the stated amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date, amount and currency of such LC Disbursement, (iv) on any Business Day on which a Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount and currency of such LC Disbursement and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

(m)LC Exposure Determination. For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for



one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at the time of determination.

(n)Tax Matters. Notwithstanding anything to the contrary herein, no CFC shall be responsible for the reimbursement of LC Disbursements, the payment of interest thereon, and the payment of fees due under Section 2.11(b) with respect thereto, to the extent that the applicable Letter of Credit was issued for the account of the Company or any Domestic Subsidiary.

#### SECTION 2.05.Funding of Borrowings

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the applicable Borrower by promptly remitting the amounts so received, in like funds, to the account of such Borrower maintained with the Administrative Agent and designated by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request or, in the case of any Borrowing made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(f), to the Issuing Bank specified by the applicable Borrower, or the Borrower Agent on its behalf, in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice in writing from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.05 and may, in reliance on such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the applicable Borrower, the interest rate applicable to ABR Revolving Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

#### SECTION 2.06.Interest Elections

(a) Each Revolving Borrowing and Term Borrowing initially shall be of the Type and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the applicable Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the applicable Borrower, or the Borrower Agent on its behalf, may elect to continue such Borrowing or, in the case of a Borrowing denominated in Dollars, to convert such Borrowing to a

Borrowing of a different Type and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower, or the Borrower Agent on its behalf, may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent of such election by delivery of an executed written Interest Election Request by the time that a Borrowing Request would be required under Section 2.03 if such Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such written Interest Election Request shall be irrevocable, shall be delivered by hand, electronic mail (including in .pdf format) or facsimile to the Administrative Agent and shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is to be a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of seven days' duration.

(c) Promptly following receipt of an Interest Election Request in accordance with this Section, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall (i) in the case of a Term Borrowing, be continued as a Eurocurrency Borrowing for an additional Interest Period of seven days, (ii) in the case of a Revolving Borrowing denominated in Dollars, be converted to an ABR Borrowing, and (iii) in the case of a Revolving Borrowing denominated in Euros or Sterling, be continued as a Borrowing of the

same Type with an Interest Period of seven days' duration. Notwithstanding any contrary provision hereof, if an Event of Default under clause (i) or (j) of Article VII has occurred and is continuing with respect to any Borrower, or if any other Event of Default has occurred and is continuing and the Administrative Agent, at the request of a Majority in Interest of Lenders of any Class, has notified the Company of the election to give effect to this sentence on account of such other Event of Default, then, in each such case, so long as such Event of Default is continuing, (i) no outstanding Borrowing of such Class denominated in Dollars may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing of such Class denominated in Dollars shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

#### SECTION 2.07. Termination and Reduction of Commitments

(a) Unless previously terminated, (i) the Initial Term Commitments shall automatically terminate at 5:00 p.m., New York City time, on the Effective Date, (ii) the Delayed Draw Term Commitments shall automatically terminate on the earlier of (A) the funding of any Delayed Draw Term Loans and (B) 5:00 p.m., New York City time, on December 31, 2019, and (iii) the Revolving Commitments shall automatically terminate on the Revolving Maturity Date.

(b) The Company may at any time terminate, or from time to time permanently reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Company shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10, the Aggregate Revolving Exposure would exceed the Aggregate Revolving Commitment.

(c) The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section not later than 12:00 noon, Local Time, on the effective date of such termination or reduction, specifying the effective date thereof; provided that, at any time when there are Eurocurrency Revolving Borrowings outstanding, in the case of any reduction of the Revolving Commitments to be made within the last two Business Days of any Interest Period, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of such reduction; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such reduction shall not become effective until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each notice delivered by the Company pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Revolving Commitments or Delayed Draw Term Commitments under paragraph (b) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall

be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

#### SECTION 2.08. Repayment of Loans; Evidence of Debt

(a) Each Borrower (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign Borrower Obligations) hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender to such Borrower on the Revolving Maturity Date and (ii) the Company hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.09.

(b) The records maintained by the Administrative Agent and the Lenders shall be prima facie evidence of the existence and amounts of the obligations of the Borrowers in respect of the Loans, LC Disbursements, interest and fees due or accrued hereunder; provided that the failure of the Administrative Agent or any Lender to maintain such records or any error therein shall not in any manner affect the obligation of the Borrowers to pay any amounts due hereunder in accordance with the terms of this Agreement.

(c) Any Lender may request that Loans of any Class made by it be evidenced by a promissory note. In such event, each applicable Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns) unless such Lender or assignee notifies the applicable Borrower that it does not require a promissory note, in which case such Lender or assignee, as applicable, shall promptly return such promissory note to the Borrower for cancellation.

#### SECTION 2.09. Amortization and Repayment of Term Loans

(a) The Company shall repay Term Borrowings on the last day of each March, June, September and December, beginning with December 31, 2019 and ending with the last such day to occur prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to 0.25% of the sum of (x) the aggregate principal amount of the Initial Term Loans funded on the Effective Date and (y) the aggregate principal amount of the Delayed Draw Term Loans outstanding on the Delayed Draw Funding Date (as such amount may be adjusted pursuant to paragraph (c) of this Section). The Company shall repay Incremental Term Loans of any Series in such amounts and on such date or dates as shall be specified therefor in the Incremental Facility Agreement establishing the Incremental Term Commitments of such Series (as such amounts may be adjusted pursuant to paragraph (c) of this Section or pursuant to such Incremental Facility Agreement).

(b) To the extent not previously paid, (i) all Term Loans shall be due and payable on the Term Maturity Date and (ii) all Incremental Term Loans of any Series shall be due and payable on the Incremental Term Maturity Date applicable thereto.

(c) Any prepayment of a Term Borrowing of any Class shall be applied in direct order to reduce the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section; provided that any prepayment of a Term Borrowing of any Class made pursuant to Section 2.10(a) shall be applied to reduce the subsequent scheduled repayments of Term Borrowings of such Class to be made pursuant to this Section as directed by the Company. In the event that Term Loans of any Class are converted into a new Class of Term Loans pursuant to a Permitted Amendment effected pursuant to Section 2.21, then the subsequent scheduled repayments of the Term Borrowings of such Class to be made pursuant to this Section will not be reduced or otherwise affected by such transaction (except to the extent that the final scheduled payment shall be reduced thereby).

(d) Prior to any repayment of any Term Borrowings of any Class under this Section, the Company shall select the Borrowing or Borrowings of the applicable Class to be repaid and shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of such selection not later than 11:00 a.m., New York City time, three Business Days before the scheduled date of such repayment. Each repayment of a Term Borrowing shall be applied ratably to the Loans included in the repaid Term Borrowing. Repayments of Term Borrowings shall be accompanied by accrued interest on the amounts repaid.

#### SECTION 2.10. Prepayment of Loans

(a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on each occasion that (i) other than as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit in accordance with Section 1.06, (A) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (B) the Foreign Borrower Exposure exceeds \$400,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$400,000,000 or (ii) as a result of any revaluation of the Dollar Equivalent of any Borrowing or Letter of Credit pursuant to Section 1.06, (x) the Aggregate Revolving Exposure exceeds the Aggregate Revolving Commitment, the Borrowers shall prepay Revolving Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in an account with the Administrative Agent in accordance with Section 2.04(i)) in an aggregate amount equal to such excess or (y) the Foreign Borrower Exposure exceeds \$420,000,000, the Borrowers shall prepay Revolving Borrowings in an aggregate amount such that after giving effect to such prepayments, the Foreign Borrower Exposure shall not exceed \$420,000,000.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of the Company or any Subsidiary in respect of any Prepayment Event, the Company shall, on the day such Net Proceeds are received (or, in the case of a Prepayment Event described in clause (a) or (b) of the definition of the term “Prepayment Event”, within five Business Days after such Net Proceeds are received), prepay Term Borrowings in an amount equal to such Net Proceeds; provided that, in the case of any event described in clause (a) or (b) of the definition of the term “Prepayment Event”, if the Company shall, prior to the date of the required prepayment, deliver to the Administrative Agent a certificate of a Financial Officer of the Company to the effect that the Company intends to cause the Net Proceeds from such event (or a portion thereof specified in such certificate) to be applied within one year after receipt of such Net Proceeds to acquire, repair or restore assets to be used or useful in the business of the Company or the Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, of any Subsidiaries), or to consummate any Permitted Acquisition of Persons that will become, or assets that will be held by, Domestic Subsidiaries (or in the case of Prepayment Events of Foreign Subsidiaries, that will become Subsidiaries or be held by any Subsidiaries) permitted hereunder (but not of other Persons), and certifying that no Default has occurred and is continuing, then no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds from such event (or the portion of such Net Proceeds specified in such certificate, if applicable) except to the extent of any such Net Proceeds that have not been so applied by the end of such one-year period (or within a period of 180 days thereafter if by the end of such initial one-year period the Company or one or more Domestic Subsidiaries (or, to the extent permitted above, Foreign Subsidiaries) shall have entered into an agreement with a third party to acquire, repair or restore such assets, or to consummate such Permitted Acquisition, with such Net Proceeds), at which time a prepayment shall be required in an amount equal to the Net Proceeds that have not been so applied.

(d) In the event and on each occasion that, as a result of the receipt of any cash proceeds by the Company or any Subsidiary in connection with any Disposition of any asset or any other event, the Company or any other Loan Party would be required by the terms of any Indebtedness that is Subordinated Indebtedness with respect to the Loan Document Obligations (or any Refinancing Indebtedness in respect thereof) to repay, prepay, redeem, repurchase or defease, or make an offer to repay, prepay, redeem, repurchase or defease, any such Subordinated Indebtedness (or such Refinancing Indebtedness) or any other Subordinated Indebtedness, then, prior to the time at which it would be required to make such repayment, prepayment, redemption, repurchase or defeasance or to make such offer, the Company shall, if and to the extent it would reduce, eliminate or satisfy any such requirement, (i) prepay Term Borrowings or (ii) use such cash proceeds to acquire assets in one or more transactions permitted hereby.

(e) Following the end of each fiscal year of the Company, commencing with the fiscal year ending December 31, 2020, the Company shall prepay Term Borrowings in an aggregate amount equal to the Specified ECF Percentage of Excess Cash Flow for such fiscal year; provided that such amount shall be reduced by the aggregate amount of voluntary prepayments of Term Borrowings and Revolving Borrowings (but only to the extent accompanied by a permanent reductions of the corresponding Commitment) made pursuant to

this Section 2.10 during such fiscal year and after the end of such fiscal year but prior to the date on which the prepayment pursuant to this paragraph (e) for such fiscal year is required to have been made, excluding any such prepayments to the extent financed from Excluded Sources. Each prepayment pursuant to this paragraph shall be made no later than the date that is five Business Days following the date on which financial statements are required to be delivered pursuant to Section 5.01(a) with respect to the fiscal year for which Excess Cash Flow is being.

(f) Prior to any optional or mandatory prepayment of Borrowings under this Section, the applicable Borrower, or the Borrower Agent on its behalf, shall specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (g) of this Section. In the event of any mandatory prepayment of Term Borrowings made at a time when Term Borrowings of more than one Class are outstanding, the Company shall select Term Borrowings to be prepaid so that the aggregate amount of such prepayment is allocated among the Term Borrowings pro rata based on the aggregate principal amounts of outstanding Borrowings of each such Class.

(g) The applicable Borrower, or the Borrower Agent on its behalf, shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of any optional prepayment and, to the extent practicable, any mandatory prepayment hereunder not later than 12:00 noon, Local Time, on the date of such prepayment; provided that, in the case of any prepayment of Eurocurrency Loans to be made within the last two Business Days of the Interest Period relating to such Eurocurrency Loan, such notice shall be required to be delivered not later than 12:00 noon, Local Time, two Business Days before the date of prepayment; and provided, further, that if a Borrower delivers an Interest Election Request in respect of the conversion or continuation of any Borrowing, such Borrowing shall not be prepaid until the Interest Period applicable to such Borrowing at the time such Interest Election Request is delivered has expired. Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that (A) if a notice of optional prepayment is given in connection with a conditional notice of termination of the Revolving Commitments or the Delayed Draw Term Commitments as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07 and (B) a notice of prepayment of Term Borrowings pursuant to paragraph (a) of this Section may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type and currency as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12 together with any additional amounts required pursuant to Section 2.15.

(h) Notwithstanding the foregoing, the Company shall not be required to prepay any Term Borrowings with any Foreign Source Prepayment to the extent the repatriation to the Company of such Foreign Source Prepayment (i) would result in a material tax liability to the Company or any of its Subsidiaries, (ii) is prohibited or restricted by any applicable Requirement of Law or (iii) would conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such Foreign Source Prepayment shall not be required to prepay any Term Borrowings pursuant to Section 2.10(c); provided that, if such repatriation would no longer result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any applicable Requirement of Law or conflict with the fiduciary duties of any director, officer or employee of the applicable Foreign Subsidiary, then such an amount equal to such Foreign Source Prepayment shall be promptly repatriated to the Company and such proceeds shall thereafter be applied to the repayment of Term Borrowings pursuant to Section 2.10(c); and provided, further, that in the case of any Prepayment Event in respect of which the Net Proceeds are less than \$20,000,000, no prepayment shall be required to be made in respect of any Net Proceeds as to which such repatriation would continue to result in a material tax liability to the Company or any of its Subsidiaries, be prohibited or restricted by any applicable Requirement of Law or conflict with the fiduciary duties on the date 365 days following such Prepayment Event.

(i) In the event that, on or prior to the date that is six months after the Effective Date, the Company (x) prepays, repays, refinances, substitutes or replaces any Term Loans in connection with a Repricing Transaction (including any prepayment made as a result of clause (c) of the definition of Prepayment Event that constitutes a Repricing Transaction), or (y) effects any amendment, waiver or other modification of, or consent under, this Agreement resulting in a Repricing Transaction, the Company shall pay to the Administrative Agent, for the ratable account of each of the applicable Term Lenders, (A) in the case of clause (x), a premium of 1.00% of the aggregate principal amount of the Term Loans so prepaid, repaid, refinanced, substituted or replaced and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the Term Loans outstanding immediately prior to such amendment, waiver, modification or consent that are the subject of such Repricing Transaction. If, on or prior to the date that is six months after the Effective Date, all or any portion of the Term Loans held by any Lender are prepaid, repaid, refinanced, substituted or replaced pursuant to Section 2.18 as a result of, or in connection with, such Lender not consenting with respect to any amendment, waiver, modification or consent referred to in clause (y) above (or otherwise in connection with a Repricing Transaction), such prepayment, repayment, refinancing, substitution or replacement will be made at 101% of the principal amount so prepaid, repaid, refinanced, substituted or replaced. All such amounts shall be due and payable on the date of effectiveness of such Repricing Transaction.

#### SECTION 2.11. Fees

(a) The Company agrees to pay to the Administrative Agent (i) for the account of each Revolving Lender a commitment fee which shall accrue at the Applicable Rate on the daily unused amount of the Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Revolving Commitment



terminates and (ii) for the account of each Delayed Draw Term Lender, a ticking fee which shall accrue at the Applicable Ticking Fee Rate on the daily unused amount of the Delayed Draw Term Commitment of such Lender during the period from and including the Effective Date to but excluding the earlier of (x) the date on which such Delayed Draw Term Commitment terminates and (y) the Delayed Draw Funding Date. Accrued commitment and ticking fees in respect of the Revolving Commitments or the Delayed Draw Term Commitments shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitments and Delayed Draw Term Commitments terminate, as applicable, commencing on the first such date to occur after the date hereof. All commitment and ticking fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Revolving Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Lender.

(b) Each Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit issued for the account of such Borrower, which shall accrue at the Applicable Rate used to determine the interest rate applicable to Eurocurrency Revolving Loans on the daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to each Issuing Bank a fronting fee (payable in Dollars), which shall accrue at the rate or rates per annum separately agreed upon between the Company and such Issuing Bank on the average daily amount of the LC Exposure attributable to Letters of Credit issued by such Issuing Bank (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any such LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. In addition, if, as contemplated by Section 2.04(c), any Letter of Credit is cash collateralized and remains outstanding after the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be), the applicable Borrower will pay a fee (an "LC Fee") to the Issuing Bank in respect of such Letter of Credit which shall accrue at the Applicable Rate that would be used to determine the interest rate applicable to Eurocurrency Revolving Loans (assuming such Loans were outstanding during such period) on the daily amount of the LC Exposure attributable to such Letter of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Revolving Maturity Date (or Subsequent Maturity Date, as the case may be) but excluding the date on which such Issuing Bank ceases to have any LC Exposure in respect of such Letter of Credit. Participation fees, fronting fees and other fees payable to an Issuing Bank in respect of its Letters of Credit accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees (other than LC Fees) shall be payable on the date on which the

Revolving Commitments terminate and any such fees, including LC Fees, accruing after the date on which the Revolving Commitments terminate shall be payable on demand and, in the case of LC Fees and fronting fees accruing after the Revolving Maturity Date (or Subsequent Maturity Date, as applicable), on the date on which the relevant Issuing Bank ceases to have LC Exposure in respect of the Letter of Credit in respect of which such fees are payable. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees, LC Fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All LC Fees shall be payable in the currency in which the applicable Letter of Credit was denominated.

(c)The Company agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Company and the Administrative Agent.

(d)All fees payable hereunder shall be paid in Dollars on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Revolving Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

#### SECTION 2.12. Interest

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b)The Loans comprising each Eurocurrency Borrowing shall bear interest at the Adjusted Eurocurrency Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c)Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by any Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section 2.12 or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Revolving Loans as provided in paragraph (a) of this Section 2.12.

(d)Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of a Revolving Loan, upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of a Eurocurrency Loan prior to the end of the current Interest Period therefor, accrued interest on

such Loan shall be payable on the effective date of such conversion. All interest shall be payable in the currency in which the applicable Loan is denominated.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that (i) interest on Borrowings denominated in Sterling shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and (ii) interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) If as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason (excluding any restatement of or other adjustment to the financial statements of the Company with respect to the initial adoption by the Company of Mark-to-Market Pension Accounting as described in Annex A), the Company or the Administrative Agent determines that (i) the Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Leverage Ratio would have resulted in a higher Applicable Rate for any period, the Company shall be obligated to pay to the Administrative Agent, for the accounts of the applicable Lenders and Issuing Banks, promptly on demand by the Administrative Agent (or after the occurrence of any Event of Default under Article VII (i) or (j) with respect to any Borrower, automatically and without further action by the Administrative Agent, any Lender or any Issuing Bank) an amount equal to the excess of the interest and fees (including participation fees with respect to Letters of Credit and LC Fees, as applicable) that should have been paid for such period over the amount of interest and fees actually paid for such period. The Company's obligations under this paragraph (f) shall survive the termination of the Commitments and the repayment of the other Obligations hereunder for a period of 90 days.

#### SECTION 2.13. Alternate Rate of Interest

(a) If prior to the commencement of any Interest Period for a Eurocurrency Borrowing of any Class:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted Eurocurrency Rate for such Interest Period (including because the applicable Screen Rate is not available or published on a current basis), for the applicable currency; or

(ii) the Administrative Agent is advised by a Majority in Interest of the Lenders of such Class that the Adjusted Eurocurrency Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Eurocurrency Borrowing for the applicable currency and such Interest Period;

then the Administrative Agent shall give notice thereof to the applicable Borrower, or the Borrower Agent on its behalf, and the Lenders of such Class by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until the Administrative Agent notifies such Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist (the Administrative Agent having determined that such circumstances affecting the relevant market no longer exist and adequate and reasonable means do exist for determining the Adjusted Eurocurrency Rate or the Administrative Agent having been notified by a Majority in Interest of the Lenders of such Class that such circumstances described in clause (ii) above no longer exist), (i) in the case of Borrowings denominated in Dollars, (A) any Interest Election Request that requests the conversion of any Borrowing of such Class to, or continuation of any Borrowing of such Class as, a Eurocurrency Borrowing shall be ineffective, and such Borrowing shall be continued as an ABR Borrowing, (ii) any Borrowing Request for a Eurocurrency Borrowing of such Class shall be made as a request for an ABR Borrowing, and (iii) in the case of Borrowings denominated in Euros or Sterling, until the Administrative Agent notifies such Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, the rate of interest that shall apply to such Borrowing shall be such rate as the Administrative Agent shall determine adequately and fairly reflects the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period plus the Applicable Rate then in effect for Eurocurrency Loans. If an unavailability notice is delivered in respect of any Borrowing, the applicable Borrower, or the Borrower Agent on its behalf, may elect by notice to the Administrative Agent to revoke its request that such Borrowing be made or continued, in which event Section 2.15 shall not apply (except that Lenders shall be entitled to receive their actual out-of-pocket losses, costs and expenses, if any, in connection with such Borrowing not being made or continued).

(b) If, at any time, the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in paragraph (a)(i) of this Section 2.13 have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in paragraph (a)(i) of this Section 2.13 have not arisen but either (w) the supervisor for the administrator of the applicable Screen Rate has made a public statement that the administrator of such Screen Rate is insolvent (and there is no successor administrator that will continue publication of such Screen Rate), (x) the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of such Screen Rate), (y) the supervisor for the administrator of the applicable Screen Rate has made a public statement identifying a specific date after which such Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the applicable Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which such Screen Rate may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the applicable Screen Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but such related changes shall not

include a reduction of the Applicable Rate); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders of each Class stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii)(w), clause (ii)(x) or clause (ii)(y) of the first sentence of this Section 2.13(b), only to the extent the applicable Screen Rate for the applicable currency and such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurocurrency Borrowing shall be ineffective and (y) if any Borrowing Request requests a Eurocurrency Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

#### SECTION 2.14. Increased Costs

• (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Bank (except any such reserve requirement reflected in the Adjusted Eurocurrency Rate);

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

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), to increase the cost to such Lender, Issuing Bank or other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or any other amount but excluding lost profits), then, from time to time upon request of such Lender, Issuing Bank or other Recipient, the applicable Borrower will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs or expenses incurred or reduction suffered; provided that the Company shall not be liable for such compensation (A) unless such Lender or Issuing Bank is generally charging such amounts to

similarly situated borrowers under comparable syndicated credit facilities or (B) if the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital requirements or liquidity has had or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then, from time to time upon request of such Lender or Issuing Bank, the applicable Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, or such other Recipient, as the case may be, as specified in paragraph (a) or (b) of this Section delivered to the Company shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

#### SECTION 2.15. Break Funding Payments

In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert or continue any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto other than as a result of a failure to fund when the conditions precedent are met, (d) the failure to prepay any Eurocurrency Loan on a date specified therefor in any notice of prepayment given by any Borrower (whether or not such notice may be revoked in accordance with the terms hereof) or (e) the assignment of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto as a result

of a request by the applicable Borrower, or the Borrower Agent on its behalf, pursuant to Section 2.18 or pursuant to Section 2.20(e), then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted Eurocurrency Rate that would have been applicable to such Loan (but not including the Applicable Rate applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender delivered to the applicable Borrower, or the Borrower Agent on its behalf, and setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

#### SECTION 2.16. Taxes

(a) Withholding of Taxes; Gross-Up. Each payment by a Loan Party under this Agreement or any other Loan Document, whether to the Administrative Agent, any Lender or Issuing Bank or any other Person to which any such payment is owed (each of the foregoing being referred to as a “Recipient”), shall be made without deduction or withholding for any Taxes, unless such withholding is required by any applicable law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent may so withhold and shall timely pay the full amount of deducted or withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by a Loan Party to a Governmental Authority pursuant to this Agreement, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall (severally and not jointly; provided that each Foreign Borrower is jointly and severally liable for the Foreign

Borrower Obligations) indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with this Agreement (including amounts paid or payable under this paragraph) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 20 days after the Recipient delivers to any Loan Party a certificate stating the amount of any Indemnified Taxes so paid or payable by such Recipient and describing in reasonable detail the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, the Administrative Agent shall be indemnified only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with this Agreement and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph shall be paid within 10 days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under this Agreement shall deliver to each Borrower and the Administrative Agent, at the time or times reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by such Borrower or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by a Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by a Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (A) through (E) of paragraph (f)(ii) below) shall not be required if in the Lender's judgment such completion, execution or submission would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of a Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 2.16(f). If any form or certification previously delivered pursuant to this Section 2.16(f) expires or becomes obsolete or inaccurate in any



respect with respect to a Lender, such Lender shall promptly notify the applicable Borrower, or the Borrower Agent on its behalf, and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so. Notwithstanding any other provision of this paragraph, a Lender shall not be required to deliver any form pursuant to this paragraph that it is not legally able to deliver.

(ii) Without limiting the generality of the foregoing, each Lender shall, if it is legally eligible to do so, deliver to each Borrower and the Administrative Agent (in such number of copies as is reasonably requested by such Borrower and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) in the case of a Lender that is a U.S. Person, IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding Tax;

(B) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (1) with respect to payments of interest under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “interest” article of such tax treaty and (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(C) in the case of a Foreign Lender for whom payments under this Agreement constitute income that is effectively connected with such Lender’s conduct of a trade or business in the United States of America, IRS Form W-8ECI;

(D) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, both (1) IRS Form W8BEN or IRS Form W-8BEN-E, as applicable, and (2) a certificate substantially in the form of Exhibit I-1, Exhibit I-2, Exhibit I-3 or Exhibit I-4 (each, a “U.S. Tax Certificate”), as applicable, to the effect that such Lender is not (x) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (y) a “10 percent shareholder” of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code or (z) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code;

(E) in the case of a Foreign Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender), (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided that if such Lender is a

partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax, together with such supplementary documentation as shall be necessary to enable the applicable Borrower or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld.

(iii) If a payment made to a Lender under this Agreement would be subject to U.S. Federal withholding Tax or reporting requirements imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold or to report from such payment. Solely for purposes of this Section 2.16(f)(iii), the term "FATCA" shall include any amendments made to FATCA after the Effective Date.

(g) Additional United Kingdom Tax Matters. (i) Subject to (ii) below, each Lender and each Loan Party which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Loan Party to obtain authorization to make such payment without a UK Tax Deduction, including making and filing an appropriate application for relief under an applicable UK Treaty.

(ii) A UK Treaty Lender that (x) holds a passport under the HMRC DT Treaty Passport scheme and (y) wishes such scheme to apply to this Agreement, shall confirm its scheme reference number and its jurisdiction of tax residence: (A) where the UK Treaty Lender is a Lender on the date of this Agreement, in such Lender's Tax Administrative Questionnaire; or (B) where the UK Treaty Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption, and upon satisfying either clause (A) or (B) above, such Lender shall have satisfied its obligation under paragraph (g)(i) above but that UK Treaty Lender shall have an obligation to cooperate further with the relevant Credit Party in accordance with Section 2.16(g)(iii).

(iii) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:

(A) a Loan Party making a payment to such Lender has not made a UK Borrower DTTP Filing in respect of such Lender; or

(B)a Loan Party making a payment to such Lender has made a UK Borrower DTTP Filing in respect of such Lender but:

(1)such UK Borrower DTTP Filing has been rejected by HMRC; or

(2)HMRC has not given such Loan Party authority to make payments to such Lender without a UK Tax Deduction within 30 Business Days of the date of such UK Borrower DTTP Filing;

and in each case, the relevant Loan Party has notified that Lender in writing of either (1) or (2) above, then such Lender and such Loan Party shall co-operate in completing any additional procedural formalities necessary for such Loan Party to obtain authorization to make that payment without a UK Tax Deduction.

(iv)If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, no Loan Party shall make a UK Borrower DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment(s) or its participation in any Loan unless the Lender otherwise agrees.

(v)Each Loan Party shall, promptly on making a UK Borrower DTTP Filing, deliver a copy of such UK Borrower DTTP Filing to the Administrative Agent for delivery to the relevant Lender.

(vi)A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender (A) in the case of a Lender that is a Lender on the date of this Agreement, gives a UK Tax Confirmation to the Company by entering into the Agreement; and (B) in the case of a Lender that becomes a Lender after the date of this Agreement, shall give a Tax Confirmation to the Company in the Assignment and Assumption that it executes. A Lender that is a UK Qualifying Lender solely by virtue of sub-paragraph (b) of the definition of UK Qualifying Lender shall promptly notify the Company and the Administrative Agent if there is any change in the position from that set out in the UK Tax Confirmation; provided that the Lender shall, where such change occurs as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of that change.

(vii)Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

(A)not a UK Qualifying Lender;

(B)a UK Qualifying Lender (that is not a UK Treaty Lender); or

(C)a UK Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire; or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(g)(vii) then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not a UK Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement shall not be invalidated by any failure of a Lender to comply with this Section 2.16(g)(vii). Each Lender shall promptly notify the Company and the Administrative Agent if it has ceased to be a UK Qualifying Lender; provided that the Lender shall, where that Lender ceases to be a UK Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be a UK Qualifying Lender.

(viii) Each UK Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of a UK Treaty with respect to payments made by any UK Borrower hereunder.

(h) Additional Irish Withholding Tax Matters.

(i) Each Lender and each Irish Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Irish Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of Ireland, including making and filing an appropriate application for relief under an applicable Irish Treaty and the provision by the Lender to each Irish Borrower of such authorization granted by the Revenue Commissioners of Ireland entitling the Irish Borrower to pay such Lender without withholding or deduction for Taxes imposed under the laws of Ireland.

(ii) Each Lender shall indicate, for the benefit of the Administrative Agent and any relevant Loan Party, but without liability to any Loan Party, whether it is:

(A) not an Irish Qualifying Lender;

(B) an Irish Qualifying Lender (that is not an Irish Treaty Lender); or

(C) an Irish Treaty Lender,

in (x) where the Lender is a Lender on the date of this Agreement, such Lender's Tax Administrative Questionnaire or (y) where the Lender becomes a Lender after the date of this Agreement, the relevant Assignment and Assumption Agreement. If a Lender fails to indicate its status in accordance with this Section 2.16(h)(ii), then such Lender shall be treated for the purposes of this Agreement (including by each Loan Party) as if it is not an Irish Qualifying Lender until such time as it notifies Company and the Administrative Agent. An Assignment and Assumption Agreement and shall not be invalidated by any failure of a Lender to comply with this Section 2.16(h)(ii). Any Lender that ceases to be an Irish Qualifying Lender shall promptly notify the Administrative Agent and the

Borrowers; provided that the Lender shall, where that Lender ceases to be an Irish Qualifying Lender as a result of a change in law, promptly notify the Company and the Administrative Agent on becoming aware of it ceasing to be an Irish Qualifying Lender.

(iii) Each Irish Treaty Lender shall notify the Company and the Administrative Agent if it determines in its sole discretion that it ceases to be entitled to claim the benefits of an Irish Treaty with respect to payments made by any Irish Borrower hereunder.

(i) Additional Dutch Withholding Tax Matters. (i) Each Lender and each Dutch Borrower which makes a payment to such Lender shall cooperate in completing any procedural formalities necessary for such Dutch Borrower to obtain authorization to make such payment without withholding or deduction for Taxes imposed under the laws of the Netherlands.

(ii) Each Lender shall notify the Dutch Borrower and Administrative Agent if such Lender determines in its sole discretion that it ceases to be entitled to claim the benefits of an income tax treaty to which the Netherlands is a party with respect to payments made by any Dutch Borrower hereunder.

(j) Treatment of Certain Refunds. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such Recipient, shall repay to such Recipient the amount paid to such Recipient pursuant to the prior sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will any Recipient be required to pay any amount to any indemnifying party pursuant to this paragraph if such payment would place such Recipient in a less favorable position (on a net after-Tax basis) than such Recipient would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any Recipient to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(k)(i) All amounts expressed to be payable under a Loan Document by any party to a Loan Document (a “Party”) to a Lender or Administrative Agent which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (ii) below, if VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent to any Party under a Loan Document and such Lender or Administrative Agent is required to account to the relevant tax authority for the VAT, that Party must pay to such Lender or Administrative Agent (in addition to and at the same time as paying any other consideration for

such supply) an amount equal to the amount of the VAT (and such Lender or Administrative Agent must promptly provide an appropriate VAT invoice to that Party).

(ii) If VAT is or becomes chargeable on any supply made by any Lender or Administrative Agent (the “Supplier”) to any Recipient under a Loan Document, and any Party other than the Recipient (the “Relevant Party”) is required by the terms of any Loan Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):

(A) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (A) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient reasonably determines relates to the VAT chargeable on that supply; and

(B) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(iii) Where a Loan Document requires any Party to reimburse or indemnify a Lender or Administrative Agent for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Lender or Administrative Agent for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender or Administrative Agent reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 2.16(k) to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member of the European Union).

(v) In relation to any supply made by a Lender or Administrative Agent to any Party under a Loan Document, if reasonably requested by such Lender or Administrative Agent, that Party must promptly provide such Lender or Administrative Agent with details of that Party’s VAT registration and such other information as is reasonably requested in connection with such Lender or Administrative Agent’s VAT reporting requirements in relation to such supply.

(l)Issuing Bank. For purposes of this Section 2.16, the term “Lender” shall include each Issuing Bank.

(m)Survival. Each party’s obligations under this Section shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under this Agreement and the other Loan Documents.

SECTION 2.17.Payments Generally; Pro Rata Treatment; Sharing of Setoffs

(a) Each Borrower shall make each payment required to be made by it hereunder or under any other Loan Document prior to the time expressly required hereunder or under such other Loan Document for such payment (or, if no such time is expressly required, prior to 12:00 noon, Local Time, in the case of any payment in respect of a Loan or an LC Disbursement, and prior to 12:00 noon, New York City time, in the case of any other payment), on the date when due, in immediately available funds, without any defense, setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent, except that payments required to be made directly to any Issuing Bank shall be so made, payments pursuant to Sections 2.14, 2.15, 2.16, 2.22 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. The Administrative Agent shall distribute any such payment received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments under any Loan Document of principal or interest in respect of any Loan denominated in Euros or Sterling or of any breakage indemnity under Section 2.15 in respect of any such Loan shall be made in the currency in which such Loan is denominated. All other payments required to be made by any Loan Party under any Loan Document shall be made in Dollars except that any amounts payable under Section 2.14, 2.15, 2.16, 2.22 or 9.03 (or any indemnification or expense reimbursement provision of any other Loan Document) that are invoiced in a currency other than Dollars shall be payable in the currency so invoiced.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied towards payment of the amounts then due hereunder ratably among the parties entitled thereto, in accordance with the amounts then due to such parties.

(c) Except to the extent that this Agreement provides for payments to be disproportionately allocated to or retained by a particular Lender or group of Lenders (including in connection with the payment of interest or fees at different rates and the repayment of principal amounts of Term Loans at different times as a result of Permitted Amendments effected

under Section 2.21), each Lender agrees that if it shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the amount of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amounts of principal of and accrued interest on their Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by a Borrower pursuant to and in accordance with the express terms of this Agreement (as in effect from time to time) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any Person that is an Eligible Assignee (as such term is defined from time to time), including the application of funds arising from the existence of a Defaulting Lender. Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the applicable Borrower, or the Borrower Agent on its behalf, prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or Issuing Banks hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or Issuing Banks, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it hereunder to or for the account of the Administrative Agent or any Issuing Bank, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations in respect of such payment until all such unsatisfied obligations have been discharged or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender pursuant to



Sections 2.04(d), 2.04(f), 2.05(b), 2.17(c), 2.17(d) and 9.03(c), in each case in such order as shall be determined by the Administrative Agent in its discretion.

SECTION 2.18. Mitigation Obligations; Replacement of Lenders

(a) If any Lender requests compensation under Section 2.14 or 2.22, or if a Loan Party is required to pay any additional amount to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall (at the request of such Borrower or the Borrower Agent) use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14, 2.16 or 2.22, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Each Borrower hereby agrees to pay all reasonable out of pocket costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

(b) If (i) any Lender requests compensation under Section 2.14 or 2.22, (ii) any Loan Party is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender has become a Defaulting Lender or (iv) any Lender has failed to consent to a proposed amendment, waiver, discharge or termination that under Section 9.02 requires the consent of all the Lenders (or all the affected Lenders or all the Lenders of the affected Class) and with respect to which the Required Lenders (or, in circumstances where Section 9.02 does not require the consent of the Required Lenders, a Majority in Interest of the Lenders of the affected Class) shall have granted their consent, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement and the other Loan Documents (or, in the case of any such assignment and delegation resulting from a failure to provide a consent, all its interests, rights and obligations under this Agreement and the other Loan Documents as a Lender of a particular Class) to an Eligible Assignee that shall assume such obligations (which may be another Lender, if a Lender accepts such assignment and delegation); provided that (A) the Company shall have received the prior written consent of the Administrative Agent (and, if a Revolving Commitment is being assigned, each Issuing Bank), which consent shall not unreasonably be withheld (if such consent would be required under Section 9.04 in connection with an assignment to such Person), (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and, if applicable, participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, (if applicable, in each case only to the extent such amounts relate to its interest as a Lender of a particular Class) from the assignee (in the case of such principal and accrued interest and fees) or the Company (in the case of all other amounts), (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 2.14 or 2.22 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments and (D) in the case of any such assignment and delegation resulting from the failure to provide a

consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver, discharge or termination can be effected. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation have ceased to apply. Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Company, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto.

#### SECTION 2.19. Defaulting Lenders

Notwithstanding any provision of this Agreement to the contrary, if any Revolving Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Revolving Lender is a Defaulting Lender:

(a) commitment fees shall cease to accrue on the unused amount of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.11(a);

(b) the Revolving Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or any other requisite Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 9.02), in each case, except to the extent expressly provided in the second to last sentence of Section 9.02(b);

(c) if any LC Exposure exists at the time such Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (with the term “Applicable Percentage” meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph (c), the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at the time of such reallocation calculated disregarding the Revolving Commitments of the Defaulting Lenders at such time) but only to the extent that the sum of all Non-Defaulting Lenders’ Revolving Exposures plus such Defaulting Lender’s LC Exposure does not exceed the sum of all Non-Defaulting Lenders’ Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Banks the portion of such Defaulting Lender’s LC Exposure that has not been

reallocated in accordance with the procedures set forth in Section 2.04(i) for so long as such LC Exposure is outstanding;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay participation fees to such Defaulting Lender pursuant to Section 2.11(b) with respect to such portion of such Defaulting Lender's LC Exposure for so long as such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if any portion of the LC Exposure of such Defaulting Lender is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.11(a) and 2.11(b) shall be adjusted to give effect to such reallocation; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all participation fees payable under Section 2.11(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks (and allocated among them ratably based on the amount of such Defaulting Lender's LC Exposure attributable to Letters of Credit issued by each Issuing Bank) until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless in each case it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be fully covered by the Revolving Commitments of the Non-Defaulting Lenders and/or cash collateral provided by the Borrowers in accordance with Section 2.19(c), and participating interests in any such issued, amended, reviewed or extended Letter of Credit will be allocated among the Non-Defaulting Lenders in a manner consistent with Section 2.19(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that (x) a Bankruptcy Event with respect to a Revolving Lender Parent shall have occurred following the date hereof and for so long as such Bankruptcy Event shall continue or (y) any Issuing Bank has a good faith belief that any Revolving Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend, renew or extend any Letter of Credit, unless such Issuing Bank shall have entered into arrangements with the applicable Borrower, or the Borrower Agent on its behalf, or such Revolving Lender satisfactory to such Issuing Bank to defease any risk to it in respect of such Lender hereunder.

In the event that the Administrative Agent, the Company and each Issuing Bank each agree that a Defaulting Lender has adequately remedied all matters that caused such Lender

to be a Defaulting Lender (a “Restored Lender”), then the LC Exposure of the Revolving Lenders shall be reallocated in accordance with their Applicable Percentages and on such date such Restored Lender shall purchase at par such of the Revolving Loans of the other Revolving Lenders as the Administrative Agent shall determine may be necessary in order for such Restored Lender to hold such Loans in accordance with its Applicable Percentage (with the term “Applicable Percentage” meaning, with respect to any Lender for purposes of reallocations to be made pursuant to this paragraph, the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment at the time of such reallocation calculated including the Revolving Commitment of such Restored Lender but disregarding the Revolving Commitments of the Defaulting Lenders at such time).

Subject to Section 9.20 no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender’s increased exposure following such reallocation.

#### SECTION 2.20. Incremental Facilities

(a) The Company may on one or more occasions, by written notice to the Administrative Agent, request (i) during the Revolving Availability Period, the establishment of Incremental Revolving Commitments and/or (ii) the establishment of Incremental Term Commitments, in an aggregate amount for all such Incremental Commitments not to exceed the sum of (A) \$150,000,000 plus (B) such amount as would not cause the Secured Leverage Ratio, computed on a Pro Forma Basis as of the last day of the fiscal quarter most recently ended prior to the effective date of the relevant Incremental Facility Agreement in respect of which financial statements have been delivered pursuant to Section 5.01(a) or (b), to exceed, 3.00 to 1.00; provided that for purposes of the pro forma calculations required by clauses (A) and (B) above, (x) the Incremental Revolving Commitments that would become effective in connection with the requested Incremental Facility shall be assumed to be fully drawn and (y) the calculation of clause (B) above shall be determined without giving effect to any incurrence under clause (A) above that is incurred substantially simultaneously with amounts under clause (B) above; provided, further, that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (B) may, at the Company’s option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the definitive agreement to consummate such Limited Condition Acquisition or at the closing thereof. Each such notice shall specify (A) the date on which the Company proposes that the Incremental Revolving Commitments or the Incremental Term Commitments, as applicable, shall be effective, which shall be a date not less than 10 Business Days (or such shorter period as may be agreed to by the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (B) the amount of the Incremental Revolving Commitments or Incremental Term Commitments, as applicable, being requested (it being agreed that (x) any Lender approached to provide any Incremental Revolving Commitment or Incremental Term Commitment may elect or decline, in its sole discretion, to provide such Incremental Revolving Commitment or Incremental Term Commitment and (y) any Person that the Company proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible

Assignee and must be reasonably acceptable to the Administrative Agent and, in the case of any proposed Incremental Revolving Lender, each Issuing Bank.

(b) The terms and conditions of any Incremental Revolving Commitment and Loans and other extensions of credit to be made thereunder shall be, except as otherwise set forth herein, identical to those of the Revolving Commitments and Loans and other extensions of credit made thereunder, and shall be treated as a single Class with such Revolving Commitments and Loans; provided that (i) the maturity date of any Incremental Revolving Commitments shall be no sooner than, but may be later than, the Revolving Maturity Date, (ii) there shall be no mandatory reduction of any Incremental Revolving Commitments prior to the Revolving Maturity Date and (iii) the up-front fees applicable to any Incremental Revolving Facility shall be as determined by the Company and the Incremental Revolving Lenders providing such Incremental Facility. The terms and conditions of any Incremental Term Facility and the Incremental Term Loans to be made thereunder shall be, except as otherwise set forth herein or in the applicable Incremental Facility Agreement, identical to those of the Term Commitments and the Term Loans; provided that (i) the up-front fees, interest rates and amortization schedule applicable to any Incremental Term Facility and Incremental Term Loans shall be determined by the Company and the Incremental Term Lenders providing the relevant Incremental Term Commitments, (ii) the weighted average life to maturity of any Incremental Term Loans that are not Incremental Term A Loans shall be no shorter than, but may be longer than, the remaining weighted average life to maturity of the then outstanding Term Loans (determined without giving effect to any prepayments that reduce amortization), (iii) no Incremental Term Loan Maturity Date in respect of Incremental Term Loans that are not Incremental Term A Loans shall be earlier than, but may be later than, the Term Maturity Date, (iv) no Incremental Term Loan Maturity Date in respect of Incremental Term A Loans shall be earlier than, but may be later than, the Revolving Maturity Date and (v) if the Weighted Average Yield applicable to any Incremental Term Loans incurred prior to the date that is 18 months after the Effective Date exceeds by more than 0.50% per annum the applicable Weighted Average Yield payable pursuant to the terms of this Agreement, as amended through the date of such calculation, with respect to the Term Loans, then the Applicable Rate then in effect for the Term Loans shall automatically be increased to eliminate such excess; provided, however, that any interest in the Applicable Rate required pursuant to the foregoing as a result of any interest rate “floor” shall be effected solely through the establishment of or increase to an interest rate “floor”. Notwithstanding the foregoing, the terms and conditions applicable to an Incremental Facility may include additional or different financial or other covenants or other provisions that are agreed between the Company and the Lenders providing such Incremental Facility which are applicable only during periods after the latest Maturity Date that is in effect on the date of effectiveness of such Incremental Facility. Any Incremental Term Facilities established pursuant to an Incremental Facility Agreement (other than any Incremental Term Facilities having terms identical to the Term Loans made on the Effective Date) that have identical terms, and any Incremental Term Loans made thereunder, shall be designated as a separate series (each a “Series”) of Incremental Term Commitments and Incremental Term Loans for all purposes of this Agreement. Notwithstanding anything to the contrary herein, each Incremental Facility and all extensions of credit thereunder shall be secured by the Collateral on a pari passu basis with the other Loan Document Obligations.

(c) The Incremental Commitments and Incremental Facilities relating thereto shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Company, each Incremental Lender providing such Incremental Commitments and Incremental Facilities and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) no Default or Event of Default shall have occurred and be continuing on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Term Commitments and the making of Loans and issuance of Letters of Credit thereunder to be made on such date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, except with respect to the requirement that there not have occurred and be continuing any Default under paragraph (a) or (b) of Article VII or any Default with respect to any Borrower under paragraph (i) or (j) of Article VII (which must be true both immediately prior to and immediately after giving effect to such Incremental Commitments and the making of Loans thereunder to be made on the date of effectiveness thereof), any condition set forth in this clause (i) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be made and shall be true and correct (A) in the case of the representations and warranties qualified as to materiality, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date; provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (ii) may, at the Company's option, be modified in a manner determined by the Company and the Incremental Lenders providing such Incremental Term Loan Commitments, as set forth in the applicable Incremental Facility Agreement, such that the only representations and warranties the accuracy of which is a condition to the effectiveness of such Incremental Term Commitments are the Specified Representations and the Acquired Company Representations, (iii) after giving effect to such Incremental Commitments and the making of Loans pursuant thereto and the use of proceeds thereof (and based on the assumption that borrowings are effected in the full amount of any Incremental Revolving Commitments), the Company shall be in compliance on a Pro Forma Basis with the covenant contained in Section 6.12 recomputed as of the last day of the most-recently ended fiscal quarter of the Company for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b); provided that, in the case of Incremental Term Commitments established to finance a Limited Condition Acquisition, the condition set forth in this clause (iii) may, at the Company's option, as set forth in the applicable Incremental Facility Agreement, be tested at the signing of the agreement to make such Limited Condition Acquisition or on the date of effectiveness of such Incremental Term Commitments, (iv) the Company shall make any payments required to be made pursuant to Section 2.15 in connection with such Incremental Commitments and the related transactions under this Section and (v) the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with any such transaction, including a certificate of a Financial Officer to the effect set forth in clauses (i), (ii) and (iii) above, together

with reasonably detailed calculations demonstrating compliance with clause (iii) above. Each Incremental Facility Agreement may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section; provided that to the extent that any term of any such amendment could not be approved as an amendment of this Agreement by the Lenders providing such Incremental Commitments voting a single Class without the approval of any other Lender, such amendment will be subject to the approval of the requisite Lenders required under this Agreement.

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender, (i) such Incremental Lender shall be deemed to be a "Lender" (and a Lender in respect of Commitments and Loans of the applicable Class) hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and under the other Loan Documents and (ii) in the case of any Incremental Revolving Commitment, (A) such Incremental Revolving Commitment shall constitute (or, in the event such Incremental Lender already has a Revolving Commitment, shall increase) the Revolving Commitment of such Incremental Lender and (B) the Aggregate Revolving Commitment shall be increased by the amount of such Incremental Revolving Commitment, in each case, subject to further increase or reduction from time to time as set forth in the definition of the term "Revolving Commitment". Upon the effectiveness of any Incremental Revolving Commitment, the Revolving Exposure of the Incremental Revolving Lender holding such Commitment, and the Applicable Percentage of all the Revolving Lenders, shall automatically be adjusted to give effect thereto.

(e) On the date of effectiveness of any Incremental Revolving Commitments, each Revolving Lender shall assign to each Incremental Revolving Lender holding such Incremental Revolving Commitment, and each such Incremental Revolving Lender shall purchase from each Revolving Lender, at the principal amount thereof (together with accrued interest), such interests in the Revolving Loans and participations in Letters of Credit outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans and participations in Letters of Credit will be held by all the Revolving Lenders (including such Incremental Revolving Lenders) ratably in accordance with their Applicable Percentages after giving effect to the effectiveness of such Incremental Revolving Commitment.

(f) Subject to the terms and conditions set forth herein and in the applicable Incremental Facility Agreement, each Lender holding an Incremental Term Commitment of any Series shall make a loan to the Company in an amount equal to such Incremental Term Commitment on the date specified in such Incremental Facility Agreement.

(g) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Company referred to in Section 2.20(a) and of the effectiveness of any Incremental Commitments, in each case advising the Lenders of the details thereof and, in the case of effectiveness of any Incremental Revolving Commitments, of

the Applicable Percentages of the Revolving Lenders after giving effect thereto and of the assignments required to be made pursuant to Section 2.20(e).

#### SECTION 2.21. Loan Modification Offers

(a) The Company may on one or more occasions, by written notice to the Administrative Agent, make one or more offers (each, a “Loan Modification Offer”) to all the Lenders of one or more Classes (each Class subject to such a Loan Modification Offer, an “Affected Class”) to make one or more Permitted Amendments pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Company. Such notice shall set forth (i) the terms and conditions of the requested Permitted Amendment and (ii) the date on which such Permitted Amendment is requested to become effective (which shall not be less than 10 Business Days nor more than 30 Business Days after the date of such notice, unless otherwise agreed to by the Administrative Agent). Permitted Amendments shall become effective only with respect to the Loans and Commitments of the Lenders of the Affected Class that accept the applicable Loan Modification Offer (such Lenders, the “Accepting Lenders”) and, in the case of any Accepting Lender, only with respect to such Lender’s Loans and Commitments of such Affected Class as to which such Lender’s acceptance has been made.

(b) A Permitted Amendment shall be effected pursuant to a Loan Modification Agreement executed and delivered by each applicable Borrower, each applicable Accepting Lender and the Administrative Agent; provided that no Permitted Amendment shall become effective unless the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, stockholder resolutions, secretary’s certificates, officer’s certificates and other documents as shall reasonably be requested by the Administrative Agent in connection therewith. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each Loan Modification Agreement may, without the consent of any Lender other than the applicable Accepting Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section, including any amendments necessary to treat the applicable Loans and/or Commitments of the Accepting Lenders as a new “Class” of loans and/or commitments hereunder; provided that, in the case of any Loan Modification Offer relating to Revolving Commitments or Revolving Loans, except as otherwise agreed to by each Issuing Bank, (i) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of Credit as between the commitments of such new “Class” and the remaining Revolving Commitments shall be made on a ratable basis as between the commitments of such new “Class” and the remaining Revolving Commitments and (ii) the Revolving Availability Period and the Revolving Maturity Date, as such terms are used in reference to Letters of Credit, may not be extended without the prior written consent of each Issuing Bank.

#### SECTION 2.22. Additional Reserve Costs

(a) If and for so long as any Lender is required to make special deposits with the Bank of England, to maintain reserve asset ratios or to pay fees, in each case in respect of such Lender’s Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each



payment of interest on each of such Loans, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(b) If and for so long as any Lender is required to comply with reserve assets, liquidity, cash margin or other requirements of any monetary or other authority (including any such requirement imposed by the European Central Bank or the European System of Central Banks, but excluding requirements addressed by Section 2.22(a)) in respect of any of such Lender's Loans, such Lender may require the applicable Borrower to pay, contemporaneously with each payment of interest on each of such Lender's Loans subject to such requirements, additional interest on such Loans at a rate per annum specified by such Lender to be the cost to such Lender of complying with such requirements in relation to such Loans; provided that no Lender may request the payment of any amount under this paragraph to the extent resulting from a requirement imposed (other than as provided in Section 2.14) on such Lender by any Governmental Authority (and not on Lenders or any class of Lenders generally) in respect of a concern expressed by such Governmental Authority with such Lender specifically, including with respect to its financial health.

(c) Any additional interest owed pursuant to paragraph (a) or (b) above shall be determined by the relevant Lender, acting in good faith, which determination shall be conclusive absent manifest error, and notified to the applicable Borrower, or the Borrower Agent on its behalf, (with a copy to the Administrative Agent) at least five Business Days before each date on which interest is payable for the relevant Loans, and such additional interest so notified to the applicable Borrower, or the Borrower Agent on its behalf, by such Lender shall be payable to such Lender on each date on which interest is payable for such Loans.

#### SECTION 2.23. Foreign Borrowers

(a) The Company may, upon not less than ten (10) Business Days' written notice (or such shorter period as may be agreed by the Administrative Agent) to the Administrative Agent and the Revolving Lenders, request that the Revolving Lenders approve the designation of any Subsidiary (an "Applicant Borrower") that is a wholly-owned Foreign Subsidiary of the Company as a Foreign Borrower hereunder by delivery to the Administrative Agent of a Foreign Borrower Joinder Agreement executed by such Subsidiary, the Company and the other Loan Parties under which such Subsidiary agrees to become a Foreign Borrower and each Loan Party reaffirms its guarantees, pledges, grants and other commitments and obligations under the Credit Agreement and the Security Documents to which such Loan Party is party. The approval of the designation of an Applicant Borrower as a Foreign Borrower may be granted or withheld in the sole discretion of any Revolving Lender. An Applicant Borrower shall become a Foreign Borrower upon receipt by the Administrative Agent of (i) the written approval of each Revolving Lender, and (ii) the Company's written approval of such amendments or other modifications to

this Agreement and the other Loan Documents as may reasonably be specified by the Administrative Agent to effect the addition of such Applicant Borrower as a Foreign Borrower (collectively, the “Applicant Borrower Amendments”), it being understood, notwithstanding anything to the contrary in Section 9.02, that any Applicant Borrower Amendments shall be effective when executed and delivered by the Company and the Administrative Agent. The Administrative Agent shall send a notice to the Company and the Lenders specifying the effective date upon which the requested Applicant Borrower shall constitute a Foreign Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Foreign Borrower to receive Loans hereunder, on the terms and conditions set forth herein (as amended by the Applicant Borrower Amendments), and each of the parties hereto agrees that such Applicant Borrower shall for all purposes of this Agreement be a party to and a Foreign Borrower under this Agreement

(b)Notwithstanding the preceding paragraph (a), no Subsidiary shall become a Foreign Borrower if it shall be unlawful for such Subsidiary to become a Borrower hereunder or for any Lender to make Loans or otherwise extend credit to such Subsidiary as provided herein.

(c)The Company may from time to time, upon not less than five (5) Business Days’ written notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its reasonable discretion), terminate a Foreign Borrower’s status as such upon the execution by the Company and delivery to the Administrative Agent of a Foreign Borrower Termination with respect to such Foreign Borrower; provided that no Foreign Borrower Termination shall become effective as to any Foreign Borrower (other than to terminate its right to make further Borrowings or obtain Letters of Credit under this Agreement) until all Loans made to the terminated Foreign Borrower have been repaid, no Letter of Credit issued for the account of such terminated Foreign Borrower shall remain outstanding, and all amounts payable by such terminated Foreign Borrower in respect of LC Disbursements, interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable by the terminated Foreign Borrower under any Loan Document) have been paid in full. The Administrative Agent will promptly notify the Lenders of any such termination of a Foreign Borrower’s status.

### ARTICLE III

#### Representations and Warranties

Each Borrower represents and warrants to the Lenders on the date hereof, on the Effective Date and on each other date on which representations and warranties are made or deemed made hereunder that:

#### SECTION 3.01.Organization; Powers

▬ The Company and each Subsidiary (a) is duly organized or incorporated, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, (b) has all power and authority and all material Governmental Approvals required for the ownership and operation of its properties and the conduct of its

business as now conducted and as proposed to be conducted (except in the case of Non-Significant Subsidiaries, for failures to comply with the foregoing that, individually and in the aggregate, could not reasonably be expected to result in a Material Adverse Effect) and (c) except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business, and is in good standing (to the extent the concept is applicable in such jurisdiction), in every jurisdiction where such qualification is required.

#### SECTION 3.02. Authorization; Enforceability

The Transactions to be entered into by each Loan Party are within such Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, stockholder or other equityholder action of each Loan Party. This Agreement has been duly executed and delivered by each Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of each Borrower or such Loan Party, as the case may be, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

#### SECTION 3.03. Governmental Approvals; Absence of Conflicts

The Transactions (a) do not require any material consent or approval of, registration or filing with or any other action by any Governmental Authority, except (i) such as have been or substantially contemporaneously with the initial funding of Loans on the Effective Date will be obtained or made and are (or will so be) in full force and effect and (ii) filings necessary to perfect Liens created under the Loan Documents, (b) will not violate any applicable law, including any order of any Governmental Authority, (c) will not violate the charter, by-laws or other organizational documents of the Company or any Subsidiary that is not a Non-Significant Subsidiary, (d) will not violate or result (alone or with notice or lapse of time, or both) in a default under any indenture or other material agreement or material instrument binding upon any Borrower or any Subsidiary or any of their assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by any Borrower or any Subsidiary, or give rise to a right of, or result in, any termination, cancellation, acceleration or right of renegotiation of any obligation thereunder, in each case other than under agreements governing Indebtedness, including the Existing Credit Agreement, that will be repaid on the Effective Date and (e) except for Liens created under the Loan Documents, will not result in the creation or imposition of any Lien on any asset of any Borrower or any Subsidiary.

#### SECTION 3.04. Financial Condition; No Material Adverse Change

(a) The Company has heretofore furnished to the Lenders (i) the consolidated balance sheet of the Company as at December 31, 2018, and related statements of operations, comprehensive income, changes in stockholders' equity and cash flows of the Company for the fiscal year ended at December 31, 2018, audited by and accompanied by the opinion of PricewaterhouseCoopers,

LLP, independent registered public accounting firm and (ii) an unaudited consolidated balance sheet of the Company as at the end of, and related statements of income and cash flows of the Borrower for, the fiscal quarter and the portion of the fiscal year ended June 30, 2019 (and comparable period for the prior fiscal year), certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries as of such date and for such period in accordance with GAAP, subject to normal yearend audit adjustments and the absence of certain footnotes in the case of the statements referred to in clause (ii) above.

(b) Since December 31, 2018, there has been no event or condition that has resulted, or could reasonably be expected to result, in a material adverse change in the business, assets, operations, performance or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole.

#### SECTION 3.05. Properties

(a) The Company and each Subsidiary has good title to, or valid leasehold interests in, all its property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) No patents, trademarks, copyrights, licenses, technology, software, domain names, or other Intellectual Property used by the Company or any Subsidiary in the operation of its business infringes upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except for Disclosed Matters, no claim or litigation regarding any patents, trademarks, copyrights, licenses, technology or other Intellectual Property owned or used by the Company or any Subsidiary is pending against, or, to the knowledge of the Company or any Subsidiary, threatened in writing against, the Company or any Subsidiary that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. As of the Effective Date, each patent, trademark, copyright, license, technology, software, domain name, or other Intellectual Property that, individually or in the aggregate, is material to the business as currently conducted of the Company and the Subsidiaries is owned or licensed, as the case may be, by the Company, a Designated Subsidiary or a Foreign Subsidiary.

#### SECTION 3.06. Litigation and Environmental Matters

(a) Except for the Disclosed Matters, there are no actions, suits, proceedings, claims or counterclaims by or before any arbitrator or Governmental Authority pending against the Company or any Subsidiary or, to the knowledge of the Company or any Subsidiary based on written notice received by it, threatened against or affecting the Company or any Subsidiary that (i) could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) involve any of the Loan Documents or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse

Effect, none of the Company or any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability (provided that with respect to this clause (iv), such knowledge shall be deemed to extend solely to the extent of the knowledge of the Company's law department and environmental engineers).

#### SECTION 3.07. Compliance with Laws and Agreements

▬ The Company and each Subsidiary is in compliance with all laws, including all orders of Governmental Authorities, applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to comply with any such laws, orders, indentures, agreements or other instruments, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

#### SECTION 3.08. Investment Company Status

▬ None of the Company or any Subsidiary is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

#### SECTION 3.09. Taxes

▬ The Company and each Subsidiary has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except where (a)(i) the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) the Company or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP with respect thereto or (b) the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

#### SECTION 3.10. Employee Benefit Plans; Labor Matters

▬ (a) The Company, each of its ERISA Affiliates, and each Subsidiary is in compliance with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder, except as could not reasonably be expected to result in a Material Adverse Effect. No ERISA Events have occurred or are reasonably expected to occur that could, in the aggregate, reasonably be expected to result in a Material Adverse Effect. The present value of all benefit liabilities under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of such Plan, and the present value of all benefit liabilities of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards Nos. 87 and 158, as applicable) did not, as of the last annual valuation dates applicable thereto, exceed the fair market value of the

assets of all such underfunded Plans except in each such case where such underfunding could not reasonably be expected to have a Material Adverse Effect.

(b) Each Foreign Pension Plan (if any) is in compliance with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan, except as could not reasonably be expected to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), neither the Company nor any Subsidiary or any of their respective directors, officers, employees or agents has engaged in a transaction which would subject the Company or any Subsidiary, directly or indirectly, to a tax or civil penalty which could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Foreign Pension Plan (if any), reserves have been established in the financial statements in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Foreign Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Foreign Pension Plans could not reasonably be expected to result in a Material Adverse Effect; the present value of the aggregate accumulated benefit liabilities of all such Foreign Pension Plans (based on those assumptions used to fund each such Foreign Pension Plan) did not, as of the last annual valuation date applicable thereto, exceed the fair market value of the assets of all such Foreign Pension Plans except in such case where the underfunding could not reasonably be expected to have a Material Adverse Effect.

(c) As of the Effective Date, there are no material strikes or lockouts against or affecting the Company or any Subsidiary pending or, to their knowledge, threatened. The hours worked by and payments made to employees of the Company and the Subsidiaries are not in violation in any material respect or in respect of any material amount under the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law relating to such matters. All material payments due from the Company or any Subsidiary, or for which any claim may be made against the Company or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as liabilities on the books of the Company or such Subsidiary.

#### SECTION 3.11. Subsidiaries and Joint Ventures; Disqualified Equity Interests

(a) Schedule 3.11A sets forth, as of the Effective Date, the name and jurisdiction of organization of, and the percentage of each class of Equity Interests owned by the Company or any Subsidiary in, (a) each Subsidiary and (b) each joint venture in which the Company or any Subsidiary owns any Equity Interests, and identifies each Designated Subsidiary, each Material Subsidiary and each Excluded Subsidiary. The Equity Interests in each Subsidiary have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth on Schedule 3.11A, as of the Effective Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Loan Party or any Subsidiary any Equity Interests of which are required to be pledged as Collateral under the Security Documents is a party requiring, and there are no Equity Interests in any such Loan Party or Subsidiary that upon exercise, conversion or exchange would require, the issuance by such Loan Party or Subsidiary of any additional Equity Interests or other securities exercisable for, convertible into,

exchangeable for or evidencing the right to subscribe for or purchase any Equity Interests in such Loan Party or Subsidiary.

(b) Schedule 3.11B sets forth, as of the Effective Date, all outstanding Disqualified Equity Interests, if any, in the Company or any Subsidiary, including the number, date of issuance and the record holder of such Disqualified Equity Interests.

#### SECTION 3.12. Solvency

Immediately after the consummation of the Transactions to occur on the Effective Date, and giving effect to the rights of subrogation and contribution under the Collateral Agreement, (a) the fair value of the assets of the Company and the Subsidiaries, taken as a whole, will exceed their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value of the assets of the Company and the Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Company and the Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured and (d) the Company and the Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged, as such business is conducted at the time of and is proposed to be conducted following the Effective Date.

#### SECTION 3.13. Disclosure

None of the reports, financial statements, certificates or other information furnished by or on behalf of the Company or any Subsidiary to the Administrative Agent, any Arranger or any Lender in connection with the negotiation of this Agreement or any other Loan Document, included herein or therein or furnished hereunder or thereunder (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that (a) with respect to forecasts or projected financial information, the Company represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time made and at the time so furnished and, if furnished prior to the Effective Date, as of the Effective Date (it being understood that such forecasts and projections may vary from actual results and that such variances may be material) and (b) no representation is made with respect to general economic or industry data.

#### SECTION 3.14. Collateral Matters

(a) The Collateral Agreement, upon execution and delivery thereof by the parties thereto, created or continued in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral (as defined therein) and (i) when the Collateral (as defined therein) constituting certificated securities (as defined in the Uniform Commercial Code) was or is delivered to the Administrative Agent, together with instruments of transfer duly endorsed in blank, the security interest created under the Collateral Agreement will

constitute (or, in the case of such Collateral as was delivered prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has maintained possession of such certificated securities) a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Collateral, prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02), and (ii) when financing statements in appropriate form are filed in the applicable filing offices, the security interest created under the Collateral Agreement will constitute (or, in the case of such financing statements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such financing statements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the remaining Collateral (as defined therein) to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

(b) Upon the recordation of the IP Security Agreements with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, and the filing of the financing statements referred to in paragraph (a) of this Section, the security interest created under the Collateral Agreement will constitute (or, in the case of such IP Security Agreements as were so filed prior to the Effective Date, will continue to constitute, assuming the Administrative Agent has taken all required actions to maintain in effect such IP Security Agreements) a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Intellectual Property included in the Collateral in which a security interest may be perfected by filing in the United States of America, in each case prior and superior in right to any other Person (in each case, subject to any Liens permitted under Section 6.02) (it being understood that subsequent recordings in the United States Patent and Trademark Office or the United States Copyright Office may be necessary to perfect a security interest in Intellectual Property acquired by the Guarantor Loan Parties after the Effective Date).

(c) Each Security Document, other than any Security Document referred to in the preceding paragraphs of this Section, including each Foreign Pledge Agreement, upon execution and delivery thereof by the parties thereto and the making of the filings and taking of the other actions provided for therein, will (or, in the case of such Security Documents delivered prior to the Effective Date, will, subject to the delivery of any required Reaffirmation Documents, continue to, assuming the Administrative Agent has maintained possession of any physical Collateral covered thereby and taken all required actions to maintain in effect such filings) be effective under applicable law to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral subject thereto, and will constitute, or will continue to constitute, a fully perfected security interest in all right, title and interest of the Guarantor Loan Parties in the Collateral subject thereto, prior and superior to the rights of any other Person (in each case, subject to any Liens permitted under Section 6.02).

### SECTION 3.15. Federal Reserve Regulations

None of the Company or any Subsidiary is engaged principally, or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of



Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, for any purpose that entails a violation (including on the part of any Lender) of any of the regulations of the Board of Governors, including Regulations U and X. Not more than 25% of the value of the assets of the Company and the Subsidiaries subject to any restrictions on the sale, pledge or other disposition of assets under this Agreement or any other Loan Document are or will at any time be represented by margin stock.

#### SECTION 3.16. Anti-Corruption Laws and Sanctions

(a) Subject to paragraph (b) below, the Company and each Foreign Borrower has implemented and maintain in effect policies and procedures reasonably designed to promote compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and their respective officers and employees with Anti-Corruption Laws and applicable Sanctions, and the Company, each Foreign Borrower, their Subsidiaries and their respective officers and, to the knowledge of the Borrowers, their employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Borrower being designated as a Sanctioned Person. None of (a) the Company, the Foreign Borrowers, any Subsidiary or, to the knowledge of the Company, any Foreign Borrower or such Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of the Company or any Foreign Borrower, any agent of the Company or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. The Transactions will not violate any Anti-Corruption Law or applicable Sanctions.

(b) The representation in paragraph (a) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such representation does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

#### SECTION 3.17. Insurance

Schedule 3.17 sets forth a description of all insurance maintained by or on behalf of the Company and the other Guarantor Loan Parties as of the Effective Date.

#### SECTION 3.18. EEA Financial Institutions

Neither the Company nor any Borrower is an EEA Financial Institution.

### ARTICLE IV

#### Conditions

#### SECTION 4.01. Effective Date

The amendment and restatement of the Existing Credit Agreement in the form of this Agreement and the obligations of the Lenders hereunder to make Loans and other extensions of credit pursuant hereto shall not become effective until the date on which each of the following conditions shall have been satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile transmission or other electronic transmission of a signed counterpart of this Agreement) that such party has signed a counterpart of this Agreement;

(b) The principal of and accrued and unpaid interest on all outstanding loans and letter of credit disbursements under the Existing Credit Agreement, and all accrued and unpaid fees and cost reimbursements payable under the Existing Credit Agreement (including all amounts owed in respect of such prepayments pursuant to Section 2.15 of the Existing Credit Agreement), shall have been (or, substantially simultaneously with the effectiveness of this Agreement and the making of Loans hereunder on the Effective Date, shall be) paid in full, and the Administrative Agent shall have received evidence reasonably satisfactory to it of such payment;

(c) The conditions set forth in paragraphs (a) and (b) of Section 4.02 shall be satisfied on and as of the Effective Date, and the Administrative Agent shall have received a certificate of a Financial Officer dated the Effective Date to such effect;

(d) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent, the Lenders and the Issuing Banks and dated the Effective Date) of each of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Company, (ii) John Bedore, internal counsel for the Company, (iii) counsel for each Foreign Borrower in the jurisdiction in which such Foreign Borrower is organized and (iv) local counsel for the Company in each jurisdiction in which any Subsidiary Loan Party is organized, and the laws of which are not covered by the opinion letter referred to in clause (i) above, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(e) The Administrative Agent shall have received such documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing (to the extent applicable) of each Loan Party, the authorization of the transactions contemplated herein and any other legal matters relating to the Loan Parties, the Loan Documents or the transactions contemplated herein, all in form and substance reasonably satisfactory to the Administrative Agent;

(f) All fees, cost reimbursements and out-of-pocket expenses required to be paid or reimbursed on the Effective Date pursuant hereto or pursuant to the Engagement Letter and the Fee Letters, to the extent invoiced prior to the Effective Date, shall have been paid or will be paid substantially simultaneously with the initial borrowing of the Term Loans (which amounts may be offset against the proceeds of the Term Loans made on the Effective Date to the extent set forth in a flow of funds statement authorized by the Company);

(g)The Administrative Agent shall have received a Reaffirmation Agreement satisfactory in form and substance to it, executed by the Company and each Designated Subsidiary that is a Domestic Subsidiary, acknowledging that the Collateral and Guarantee Requirement will continue to be satisfied and the Administrative Agent shall have received a completed Perfection Certificate dated the Effective Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered prior to the Effective Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will substantially contemporaneously with the initial funding of Loans on the Effective Date be released; provided that the Company need not have satisfied the Collateral and Guarantee Requirement with respect to Foreign Pledge Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements to the extent that the Administrative Agent has, consistent with the definition of “Collateral and Guarantee Requirement”, granted extensions of time for execution and delivery of such agreements (including any such extensions granted under the Existing Credit Agreement or pursuant to Section 5.14);

(h)The Administrative Agent shall have received a certificate, substantially in the form of Exhibit H, from a Financial Officer of the Company confirming the solvency of the Company and its Subsidiaries on a consolidated basis on the Effective Date after giving effect to the Transactions contemplated to occur on the Effective Date;

(i)The Administrative Agent shall have received evidence that the insurance required by Section 5.08 is in effect, together with endorsements naming the Administrative Agent, for the benefit of the Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 5.08; and

(j)The Administrative Agent shall have received all documentation and other information about the Borrowers and the Guarantors, including Beneficial Ownership Certifications, as have been reasonably requested by the Administrative Agent or any Lender in writing at least five days prior to the Effective Date and that they reasonably determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act and the Beneficial Ownership Regulation.

Notwithstanding the foregoing, if the Company shall have used commercially reasonable efforts to procure and deliver, but shall nevertheless be unable to deliver, any document that is required to be delivered in order to satisfy the requirements of the Collateral and Guarantee Requirement or Section 4.01(i), such delivery shall not be a condition precedent to the obligations of the Lenders and the Issuing Banks hereunder on the Effective Date, but shall be required to be accomplished as provided in Section 5.14.

#### SECTION 4.02. Each Credit Event

The obligation of each Lender to make a Loan on the occasion of any Borrowing (but not a conversion or continuation of an outstanding Borrowing), and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct, or true and correct in all material respects, on and as of such prior date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable (other than any such Borrowing or Letter of Credit issuance on the Effective Date), no Default shall have occurred and be continuing.

On the date of any Borrowing (but not a conversion or continuation of an outstanding Borrowing) or the issuance, amendment, renewal or extension of any Letter of Credit, the applicable Borrower shall be deemed to have represented and warranted that the conditions specified in paragraphs (a) and (b) of this Section have been satisfied and that, after giving effect to such Borrowing, or such issuance, amendment, renewal or extension of a Letter of Credit, (i) the LC Exposure will not exceed \$150,000,000, (ii) the portion of the LC Exposure attributable to Letters of Credit issued by any Issuing Bank will not exceed the LC Commitment of such Issuing Bank (unless otherwise agreed to by such Issuing Bank), (iii) the Revolving Exposure of any Lender will not exceed such Lender's Revolving Commitment, (iv) the Aggregate Revolving Exposure will not exceed the Aggregate Revolving Commitment and (v) the Foreign Borrower Exposure will not exceed \$400,000,000.

#### SECTION 4.03. Initial Credit Event in Respect of Each Foreign Borrower

The obligations of the Lenders to make Loans to and of the Issuing Banks to issue Letters of Credit for the account of each Foreign Borrower not a party hereto on the date hereof shall be subject to the satisfaction of the following additional conditions precedent on the date of the initial Borrowing by or Letter of Credit issuance for such Foreign Borrower :

(a) The Administrative Agent shall have received such documents, legal opinions and certificates as the Administrative Agent or its counsel may reasonably request relating to the formation, existence and good standing (to the extent the concept is applicable in such jurisdiction) of such Foreign Borrower, the authorization of the Transactions insofar as they relate to such Foreign Borrower and any other legal matters relating to such Foreign Borrower, its Foreign Borrower Joinder Agreement or such Transactions, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(b)The Lenders shall have received all documentation and other information with respect to such Foreign Borrower required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

## ARTICLE V

### Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

#### SECTION 5.01. Financial Statements and Other Information

The Company will furnish to the Administrative Agent, on behalf of each Lender:

(a)within 90 days after the end of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Annual Report on Form 10-K of the Company for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and related statements of income, stockholders’ equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the prior fiscal year, all audited by and accompanied by the opinion of Pricewaterhouse Coopers L.L.P. or another independent registered public accounting firm of recognized national standing (without a “going concern” or like qualification or exception (except as a result of a maturity date in respect of any Term Loans or Revolving Commitments or Revolving Loans) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such year in accordance with GAAP;

(b)within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Company (or, so long as the Company shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Quarterly Report on Form 10-Q of the Company for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and related consolidated statements of income and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the prior fiscal year, all certified by a Financial Officer

of the Company as presenting fairly, in all material respects, the financial position, results of operations and cash flows of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such fiscal quarter and such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes;

(c) not later than the fifth Business Day following the date of delivery of financial statements under clause (a) or (b) above, a completed Compliance Certificate signed by a Financial Officer of the Company, (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.12 and computing the Leverage Ratio and the Secured Leverage Ratio as of the last day of the fiscal period covered by such financial statements, (iii) (x) stating whether any change in GAAP or in the application thereof has occurred since the date of the consolidated balance sheet of the Company most recently theretofore delivered under clause (a) or (b) above (or, prior to the first such delivery, referred to in Section 3.04) and, if any such change has occurred, specifying the effect of such change on the financial statements (including those for the prior periods) accompanying such certificate and (y) if any change in GAAP or in the application thereof has occurred with respect to the treatment of Capital Lease Obligations or other lease obligations, attaching a reconciliation in form and substance reasonably satisfactory to the Administrative Agent, setting forth the differences in such treatment from the treatment effected by the Company pursuant to Section 1.04(b), (iv) certifying that all notices required to be provided under Sections 5.03 and 5.04 have been provided or identifying and providing any such notices not previously provided, (v) in the case of any delivery of financial statements under clause (a) above, unless the Investment Grade Date has occurred, setting forth a reasonably detailed calculation of Adjusted Consolidated Net Income for the applicable fiscal year, (vi) in the case of any delivery of financial statements under clause (a) above, setting forth reasonably detailed calculations as of the last day of the most recent fiscal quarter covered by such financial statements with respect to which Subsidiaries are Material Subsidiaries based on the information contained in such financial statements and identifying each Subsidiary, if any, that has automatically been designated a Material Subsidiary in order to satisfy the condition set forth in the definition of the term “Material Subsidiary” and of the calculation of Excess Cash Flow for such fiscal year (beginning with the fiscal year ending December 31, 2020), and (vii) identifying, as of the last day of the most recent fiscal quarter covered by such financial statements, each Subsidiary that (A) is an Excluded Subsidiary as of such date but has not been identified as an Excluded Subsidiary in Schedule 3.11A or in any prior Compliance Certificate or (B) has previously been identified as an Excluded Subsidiary but has ceased to be an Excluded Subsidiary;

(d) not later than five days after any delivery of financial statements under paragraph (a) above, a certificate of the accounting firm that reported on such financial statements stating whether it obtained knowledge during the course of its examination of such financial statements of any Default relating to compliance with Section 6.12 as of,

or for the Test Period ending, on the last day of any fiscal quarter during the fiscal year covered by such financial statements and, if such knowledge has been obtained, describing such Default (which certificate may be limited to the extent required or recommended by accounting rules or guidelines and may assume the accuracy of any Pro Forma Adjustments made by the Company to Consolidated EBITDA for the Test Periods involved);

(e) promptly after the same has been submitted to and reviewed by the board of directors of the Company in each fiscal year, a consolidated budget for such fiscal year in substantially the same form and detail as the 2019 budget furnished to the Administrative Agent prior to the Effective Date, setting forth the assumptions used for purposes of preparing such budget, and, promptly after the same have been submitted to and reviewed by the board of directors of the Company, any material revisions to such budget;

(f) promptly after any request therefor by the Administrative Agent or any Lender, copies of (i) any documents described in Section 101(k)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan and (ii) any notices described in Section 101(l)(1) of ERISA that the Company or any of its ERISA Affiliates may request with respect to any Multiemployer Plan; provided that if the Company or any of its ERISA Affiliates has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Company or the applicable ERISA Affiliate shall upon the reasonable request of the Administrative Agent promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof;

(g) promptly after any request therefor, such other non-privileged information regarding compliance with the USA PATRIOT Act and the Beneficial Ownership Regulation, as the Administrative Agent or any Lender may reasonably request; and

(h) promptly after any request therefor, such other non-privileged information regarding the operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition of the Company or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender may reasonably request; provided that the Company will not be required to provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

Information required to be delivered pursuant to clause (a) or (b) of this Section shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall have been posted by the Administrative Agent on an IntraLinks or similar site to which the Lenders have been granted access or shall be available on the website of the SEC at <http://www.sec.gov>. Information required to be delivered pursuant to this Section may also be delivered by electronic communications pursuant to procedures approved by the Administrative Agent.

#### SECTION 5.02. Notices of Material Events

The Company will furnish to the Administrative Agent prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Company or any Subsidiary, or any adverse development in any such pending action, suit or proceeding not previously disclosed in writing by the Company to the Administrative Agent and the Lenders, that in each case could reasonably be expected to result in a Material Adverse Effect or that in any manner questions the validity of any Loan Document;

(c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect; and

(d) any other development that has resulted, or could reasonably be expected to result, in a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Company setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto; provided that the Company will not be required to provide any information pursuant to this Section 5.02 (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (iii) the revelation of which would violate any confidentiality obligations owed to any third party by the Company or any Subsidiary; provided, further, that if any information is withheld pursuant to clause (i), (ii) or (iii) above, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

#### SECTION 5.03. Additional Subsidiaries

(a) If any Material Subsidiary is formed or acquired after the Effective Date, the Company will, as promptly as practicable, and in any event within 30 days (or such longer period as the Administrative Agent may agree to in writing), notify the Administrative Agent thereof and



cause the Collateral and Guarantee Requirement to be satisfied with respect to such Material Subsidiary (if it is a Designated Subsidiary) and with respect to any Equity Interests of such Subsidiary owned by any Guarantor Loan Party (including, in the case of any Equity Interests of a Foreign Subsidiary held by a Guarantor Loan Party, if requested by the Administrative Agent, the execution and delivery of a Foreign Pledge Agreement with respect to such Equity Interests (subject to the limitations referred to in the definition of “Collateral and Guarantee Requirement” and, if applicable, the taking of other necessary actions to perfect the security interest of the Administrative Agent in such Equity Interests).

(b)The Company may designate any Domestic Subsidiary that is not otherwise a Designated Subsidiary as a Designated Subsidiary; provided that (i) such Subsidiary shall have delivered to the Administrative Agent a supplement to the Collateral Agreement, in the form specified therein, duly executed by such Subsidiary, (ii) the Company shall have delivered a certificate of a Financial Officer or other executive officer of the Company to the effect that, after giving effect to any such designation and such Subsidiary becoming a Subsidiary Loan Party hereunder, the representations and warranties set forth in this Agreement and the other Loan Documents as to such Subsidiary shall be true and correct in all material respects and no Default shall have occurred and be continuing and (iii) such Subsidiary shall have delivered to the Administrative Agent documents and opinions of the type referred to in paragraphs (d) and (e) of Section 4.01, in each case, if reasonably requested by the Administrative Agent.

#### SECTION 5.04.Information Regarding Collateral

(a) The Company will, at all times during each Non-Investment Grade Period prior to the Release Date, furnish to the Administrative Agent prompt written notice of any change in (i) the legal name of any Guarantor Loan Party, as set forth in its organizational documents, (ii) the jurisdiction of organization or the form of organization of any Guarantor Loan Party (including as a result of any merger or consolidation), (iii) the location of the chief executive office of any Guarantor Loan Party or (iv) the organizational identification number, if any, or, with respect to any Guarantor Loan Party organized under the laws of a jurisdiction that requires such information to be set forth on the face of a Uniform Commercial Code financing statement, the Federal Taxpayer Identification Number of such Guarantor Loan Party. The Company agrees not to effect or permit any change referred to in the preceding sentence during any Non-Investment Grade Period prior to the Release Date unless all filings have been made (or the Administrative Agent shall have been advised of the Company’s intent to make such change and shall have received all the information necessary to, and shall have been authorized to, make all filings) under the Uniform Commercial Code or otherwise that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral owned by such Guarantor Loan Party.

(b)Each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to Section 5.01(a), the Company shall deliver to the Administrative Agent a certificate executed by an officer of the Company setting forth the information required pursuant to the Perfection Certificate or confirming that there has been no

change in such information since the date of such certificate or the date of the most recent certificate delivered pursuant to this Section 5.04(b)

#### SECTION 5.05. Existence; Conduct of Business

(a) The Company and each Subsidiary will do or cause to be done all things reasonably necessary to preserve, renew and keep in full force and effect its legal existence and exercise commercially reasonable efforts to preserve, renew and keep in full force and effect those licenses, permits, privileges, and franchises (other than Intellectual Property) that are material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation, amalgamation, dissolution or similar transaction permitted under Section 6.03 or any Disposition permitted by Section 6.05. The Company and the Subsidiaries will exercise commercially reasonable efforts in accordance with industry standard practices to preserve, renew and keep in full force and effect their Intellectual Property licenses and rights, and their patents, copyrights, trademarks and trade names, in each case material to the conduct of their business, except where the failure to take such actions, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any Disposition permitted by Section 6.05.

(b) The Company and each Subsidiary will take all actions reasonably necessary in accordance with industry standard practices to protect all patents, trademarks, copyrights, technology, software, domain names and other Intellectual Property material to the conduct of its business, including (i) protecting the secrecy and confidentiality of the confidential information and trade secrets of the Company or such Subsidiary by having and following a policy requiring employees, consultants, licensees, vendors and contractors to execute confidentiality agreements when it is likely that confidential information will be shared with them, (ii) taking all actions reasonably necessary in accordance with industry standard practices to ensure that trade secrets of the Company or such Subsidiary do not fall into the public domain and (iii) protecting the secrecy and confidentiality of the source code of computer software programs and applications owned or licensed out by the Company or such Subsidiary by having and following a policy requiring licensees of such source code (including licensees under any source code escrow agreement) to enter into agreements with use and nondisclosure restrictions, except with respect to any of the foregoing where the failure to take any such action, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

#### SECTION 5.06. Payment of Obligations

The Company and each Subsidiary will pay its obligations (other than obligations with respect to Indebtedness), including Tax liabilities, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Company or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

#### SECTION 5.07. Maintenance of Properties

2 The Company and each Subsidiary will keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

#### SECTION 5.08. Insurance

2 The Company and each Subsidiary will maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations. Each such policy of liability or casualty insurance maintained by or on behalf of the Guarantor Loan Parties shall (a) in the case of each liability insurance policy (other than workers' compensation, director and officer liability or other policies in which such endorsements are not customary), name the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder, (b) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties, as the loss payee thereunder and (c) to the extent available on commercially reasonable terms, provide for at least 30 days' (or 10 days' if such cancellation results from non-payment) (or such shorter number of days as may be agreed to by the Administrative Agent, in its discretion) prior written notice to the Administrative Agent of any cancellation of such policy.

#### SECTION 5.09. Books and Records; Inspection and Audit Rights

2 The Company and each Subsidiary will keep proper books of record and account in which full, true and correct entries in accordance with GAAP and applicable law are made of all dealings and transactions in relation to its business and activities. The Company and each Subsidiary will permit the Administrative Agent or any Lender, and any agent designated by any of the foregoing, upon reasonable prior notice and, subject to applicable legal privileges, (a) to visit and inspect its properties, (b) to examine and make extracts from its books and records and (c) to discuss its operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested provided that (i) unless an Event of Default shall have occurred and be continuing, no such discussion with any such independent accountants shall be permitted unless the Company shall have received reasonable notice thereof and a reasonable opportunity to participate therein and no Lender shall exercise such rights more often than two times during any calendar year and (ii) the reasonable costs and expenses of Lenders in connection with such visits and examinations shall be borne by the Company only after the occurrence and during the continuance of an Event of Default. Notwithstanding the foregoing, neither the Company nor its Subsidiaries will be required to reveal to the Administrative Agent or any Lender any information (a) that constitutes non-financial trade secrets or non-financial proprietary information of the Company or any of its Subsidiaries or any of their respective customers or suppliers, (b) in respect of which disclosure to the Administrative Agent or any Lender (or any of their respective representatives) is prohibited by applicable Requirements of Law or (c) the revelation of which would violate any confidentiality obligations owed to any

third party by the Company or any Subsidiary; provided that if any information is withheld pursuant to this sentence, the Company shall promptly notify the Administrative Agent of such withholding of information and the basis therefor.

#### SECTION 5.10. Compliance with Laws

(a) The Company and each Subsidiary will comply with all Requirements of Law, including Environmental Laws, ERISA and the laws applicable to each Foreign Pension Plan, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(b) The Company and each Foreign Borrower will maintain in effect and enforce policies and procedures reasonably designed to promote compliance in all material respects by the Company, each Foreign Borrower, their Subsidiaries and the respective directors, officers and employees of the foregoing with Anti-Corruption Laws and applicable Sanctions.

(c) The covenant in paragraph (b) shall be given by and apply to each Borrower for the benefit of any Credit Party only to the extent that giving, complying with or receiving the benefit of (as applicable) such covenant does not result in any violation of (i) the Blocking Regulation or (ii) any similar anti-boycott statute.

#### SECTION 5.11. Use of Proceeds and Letters of Credit

(a) The proceeds of the Initial Term Loans will be used to repay amounts owing under the Existing Credit Agreement on the Effective Date, to pay Transaction Costs and otherwise for working capital and general corporate purposes. The proceeds of the Delayed Draw Term Loans will be used (i) solely to refinance all of the Existing 5.875% Notes and to pay fees and expenses in connection therewith and (ii) to the extent of any remaining proceeds, solely to refinance all or any portion of the Existing 6.375% Notes and to pay fees and expenses in connection therewith; provided that the Company may temporarily use the proceeds of the Delayed Draw Term Loans to repay Revolving Loans, so long as on or prior to December 31, 2019 such proceeds are ultimately reapplied as set forth above. The proceeds of the Revolving Loans will be used on and after the Effective Date for working capital and other general corporate purposes of the Company, the Foreign Borrowers and the other Subsidiaries. Letters of Credit will be used by the Company, the Foreign Borrowers and the other Subsidiaries for general corporate purposes.

(b) No Borrower will request any Borrowing or Letter of Credit, and no Borrower shall use, and each Borrower shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or any Letter of Credit (i) 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, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country to the extent such activities, businesses or transaction would be permissible for a Person required to comply with

Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

#### SECTION 5.12. Further Assurances

Each Borrower and each other Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Collateral and Guarantee Requirement to be and remain satisfied at all times or otherwise to effectuate the provisions of the Loan Documents, all at the expense of the Loan Parties. The Company will provide to the Administrative Agent, from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.

#### SECTION 5.13. Maintenance of Ratings

The Company will use commercially reasonable efforts to maintain continuously in effect a rating of the credit facilities hereunder by S&P and Moody's.

#### SECTION 5.14. Certain Post-Closing Collateral Obligations

As promptly as practicable, and in any event within the time period after the Effective Date set forth therefor in Schedule 5.14 (or such later date as the Administrative Agent may agree), the Company and each other Guarantor Loan Party will satisfy the requirements set forth on Schedule 5.14, including, but not limited to, the delivery of all Foreign Pledge Agreements or Reaffirmation Documents in respect of Foreign Pledge Agreements that would have been required to be delivered on the Effective Date but for the exception contained in Section 4.01(g), and take or cause to be taken such other actions as may be necessary to comply with the Collateral and Guarantee Requirement with respect to such Foreign Pledge Agreements and the Equity Interests subject thereto, in each case except (i) to the extent otherwise agreed by the Administrative Agent pursuant to its authority as set forth in the definition of the term "Collateral and Guarantee Requirement" or (ii) in the event a requirement of Schedule 5.14 is no longer applicable due to the permitted sale or transfer of the Equity Interests of a Subsidiary prior to the time period required to satisfy such requirement set forth in Schedule 5.14.

### ARTICLE VI

#### Negative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full, all Letters of Credit shall have expired or been terminated (or shall have been cash collateralized as contemplated by Section 2.04(c)) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 6.01 Indebtedness; Certain Equity Securities

(a) None of the Company or any Subsidiary will create, incur, assume or permit to exist any Indebtedness, except:

(i) Indebtedness created under the Loan Documents;

(ii)(x) Indebtedness existing on the Effective Date and (except in the case of Guarantees in an amount less than \$10,000,000) set forth on Schedule 6.01, (y) Refinancing Indebtedness in respect of debt owed to non-Affiliates reflected on such schedule and (z) extensions and renewals of debt owed by the Company or any Subsidiary to the Company or any Subsidiary reflected on such schedule;

(iii) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary; provided that (A) such Indebtedness shall not have been transferred to any Person other than the Company or any Subsidiary and (B) any such Indebtedness owing by any Loan Party shall be unsecured and, during any Pledge Effectiveness Period, subordinated in right of payment to the Loan Document Obligations in accordance with the provisions of Exhibit D hereto;

(iv)(x) Guarantees incurred in compliance with clause (a)(xiv) or (xv) below, (y) Guarantees by Guarantor Loan Parties of Indebtedness of other Guarantor Loan Parties, Guarantees by Foreign Borrowers of Indebtedness of other Foreign Borrowers and Guarantees by Subsidiaries that are not Loan Parties of Indebtedness of other Subsidiaries that are not Loan Parties, in each case, in respect of Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 (other than clauses (ii), (vi) and (xi)); provided, that if the Indebtedness that is being Guaranteed is unsecured and/or subordinated to the Loan Document Obligations, the Guarantee shall also be unsecured and/or subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders and (z) Guarantees by Guarantor Loan Parties of Indebtedness of Subsidiaries that are not Guarantor Loan Parties, other than in respect of Permitted Cash Pooling Arrangements, in an aggregate principal amount not at any time in excess of the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(v) Indebtedness of the Company or any Subsidiary (x)(A) incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and Synthetic Lease Obligations; provided that such Indebtedness is incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement and the principal amount of such Indebtedness does not exceed the cost of acquiring, constructing or improving such fixed or capital assets or (B) assumed in connection with the acquisition of any fixed or capital assets, and Refinancing Indebtedness in respect of any of the foregoing; provided that the aggregate principal amount of Indebtedness permitted by this clause (a)(v)(x) shall not at any time outstanding, exceed the greater of (x) \$175,000,000 and (y) 2.0% of Consolidated Total

Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof, and (y) Indebtedness of the Company or any Subsidiary consisting of Capital Lease Obligations or Synthetic Lease Obligations incurred in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions;

(vi) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary in a Permitted Acquisition; provided that (A) such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (B) neither the Company nor any Subsidiary (other than such Person or the Subsidiary with which such Person is merged or consolidated or the Person that so assumes such Person's Indebtedness) shall Guarantee or otherwise become liable for the payment of such Indebtedness, and Refinancing Indebtedness in respect of any of the foregoing; provided that after giving effect to such Indebtedness permitted by this clause (vi), the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12;

(vii) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not in excess of the greater of (x) \$400,000,000 and (y) 5.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(viii)(A)(x) Indebtedness of the Company or other Domestic Subsidiaries in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services; provided that such Indebtedness shall be repaid in full within 45 days of the incurrence thereof and (y) Indebtedness of Foreign Subsidiaries in respect of Permitted Cash Pooling Arrangements; provided that such Indebtedness (1) shall not exceed the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof in the aggregate at any time outstanding and (2) shall be reduced to zero not less frequently than every 90 days, (B) Indebtedness owed by the Company or any Subsidiary to the Company or any Subsidiary pursuant to intercompany cash pooling arrangements in the ordinary course of business and consistent with past practices and (C) Indebtedness in connection with automated clearing-house transfers of funds;

(ix)(x) Indebtedness in respect of letters of credit, surety and performance bonds, bank guarantees, appeal bonds and similar instruments issued for the account of the Company or any Subsidiary supporting obligations of the Company or any Subsidiary under (A) workers' compensation and other social security and/or insurance laws in the

ordinary course of business, (B) bids, trade contracts, leases, statutory obligations, customs/duties, taxes and obligations of a like nature in the ordinary course of business and (C) judgments pending appeal that do not constitute an Event of Default and (y) Indebtedness of the type referred to in clause (f) of the definition thereof securing judgments, decrees, attachments or awards that do not constitute an Event of Default under clause (1) of Article VII;

(x)Indebtedness of the Company or any Subsidiary in the form of purchase price adjustments, earn-outs or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with any Permitted Acquisition or any other Investment;

(xi)Indebtedness in respect of any Permitted Receivables Facility (including in respect of any Standard Receivables Undertakings incurred in connection therewith);

(xii)Permitted Additional Indebtedness; provided that, after giving effect to the incurrence thereof, the Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more than the then applicable ratio under Section 6.12 for the most recent Test Period prior to such time for which financial statements shall have been delivered pursuant to Section 5.01(a) or Section 5.01(b) (after giving effect, however, to any adjustments to such applicable ratio based on the Cumulative Leverage Ratio Increase Amount reflecting any such Indebtedness that constitutes Pension Funding Indebtedness); provided, further, however, that notwithstanding anything to the contrary set forth in the definition of Permitted Additional Indebtedness, any Indebtedness incurred pursuant to this clause (xii) may be secured by the Collateral to the extent permitted by Section 6.02(a)(xvii);

(xiii)other Indebtedness in an aggregate principal amount not exceeding at any time outstanding the greater of (x) \$150,000,000 and (y) 2.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof; provided that the aggregate principal amount of Indebtedness of the Subsidiaries that are not Guarantor Loan Parties permitted by this clause (xiii) shall not exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xiv)Guarantees or joint and several liability arising under a Dutch fiscal unity (*fiscale eenheid*) for Dutch corporate tax or VAT purposes solely existing of Loan Parties;

(xv)Indebtedness arising under a declaration of joint and several liability used for the purpose of Article 2:403 of the Dutch Civil Code (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code); and

(xvi)any Defeased Debt.



For purposes of determining compliance with this Section 6.01(a), (i) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness described in this Section 6.01(a) but may be permitted in part under any combination thereof and (ii) in the event that Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness described in this Section 6.01(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Indebtedness (or portion thereof) in one of the clauses of this Section 6.01(a), and such Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b)The Company will not permit any Subsidiary to issue any preferred Equity Interests except for preferred Equity Interests issued to and held by the Company or any other Subsidiary (and, in the case of any preferred Equity Interests issued by any Foreign Borrower or Subsidiary Loan Party, such preferred Equity Interests shall be held by the Company, a Borrower or a Subsidiary Loan Party).

#### SECTION 6.02. Liens

(a) None of the Company or any Subsidiary will create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable and royalties) or rights in respect of any thereof, except:

(i) Liens created under the Loan Documents;

(ii) Permitted Encumbrances;

(iii) any Lien on any asset of the Company or any Subsidiary existing on the Effective Date and set forth on Schedule 6.02; provided that (A) such Lien shall not apply to any other asset of the Company or any Subsidiary and (B) such Lien shall secure only those obligations that it secures on the date hereof and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(iv) any Lien existing on any asset prior to the acquisition thereof by the Company or any Subsidiary or existing on any asset of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (A) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or such merger or consolidation), (B) such Lien shall not apply to any other asset of the Company or any Subsidiary (other than, in the case of any such merger or consolidation, the assets of any Subsidiary that is a party thereto) and (C) such Lien shall secure only those obligations that it secures on the date of such

acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated), and any extensions, renewals and refinancings thereof that do not increase the outstanding principal amount thereof and, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01 as Refinancing Indebtedness in respect thereof;

(v)(A) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary; provided that (x) such Liens secure only Indebtedness permitted by Section 6.01(a)(v) and (y) such Liens shall not apply to any other asset of the Company or any Subsidiary (other than the proceeds and products thereof); provided, further, that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of any fixed or capital assets, such Liens may secure all such purchase money obligations and may apply to all such fixed or capital assets financed by such Person and (B) Liens on assets arising in connection with Scheduled Dispositions that are effected as Sale/Leaseback Transactions to the extent permitted under Section 6.01(a)(v)(y);

(vi)in connection with the sale or transfer of any Equity Interests or other assets in a transaction permitted under Section 6.05, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(vii)in the case of (A) any Subsidiary that is not a wholly-owned Subsidiary or (B) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the organizational documents of such Subsidiary or such other Person or any related joint venture, shareholders' or similar agreement, including any such Liens arising under the Brazil Transaction Documents;

(viii)Liens solely on any cash earnest money deposits, escrow arrangements or similar arrangements made by the Company or any Subsidiary in connection with any letter of intent or purchase agreement for a Permitted Acquisition or other transaction permitted hereunder;

(ix)any interest or title of a lessor under leases (other than leases constituting Capital Lease Obligations) entered into by the Company or any of the Subsidiaries in the ordinary course of business;

(x)Liens deemed to exist in connection with Investments in repurchase agreements that are Permitted Investments;

(xi)Liens on property of any Subsidiary that is not a Loan Party, which Liens secure Indebtedness of such Subsidiary permitted under Section 6.01;

(xii)Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods by any of the Subsidiaries in the ordinary course of business;

(xiii) Liens in favor of any Receivables Subsidiary, or any collateral agent (or other party acting in a similar capacity) for holders of Third Party Interests or any third-party buyer or purchaser of Receivables, in each case, in connection with a Permitted Receivables Financing;

(xiv) leases, licenses, subleases or sublicenses, including non-exclusive software licenses, granted to others that do not (A) interfere in any material respect with the business of the Company and the Subsidiaries, taken as a whole, or (B) secure any Indebtedness;

(xv) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xvi) other Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xvii) Liens on the Collateral securing Permitted Additional Indebtedness in the form of term loans or notes; provided that, (x) after giving effect to the incurrence of such Indebtedness, the Secured Leverage Ratio calculated on a Pro Forma Basis giving effect to such incurrence shall be not more 3.00 to 1.00, (y) any such Liens shall rank pari passu or junior to the Liens securing the Obligations and shall be subject to intercreditor arrangements reasonably acceptable to the Administrative Agent and (z) to the extent the Liens securing any term loans rank pari passu to the Liens securing the Obligations, the applicable Indebtedness shall be subject to clause (v) of the second proviso in Section 2.20(b) as if such Indebtedness was incurred in the form of Incremental Term Loans;

(xviii) to the extent constituting Liens on the assets of the Company or any of its Subsidiaries, Liens incurred in connection with any Defeased Debt;

(xix) to the extent required by the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations thereunder, cash margin deposits securing obligations under Hedging Agreements permitted under Section 6.07, in an aggregate amount not to exceed the greater of (x) \$75,000,000 and (y) 1.0% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof;

(xx) Liens on (i) deposit accounts of the Company and Domestic Subsidiaries, and related set-off rights of cash management banks securing Indebtedness permitted by Section 6.01(viii)(A)(x) and (ii) deposit accounts of Foreign Subsidiaries and related set-off rights of cash management banks servicing Permitted Cash Pooling Arrangements, including in each case, fees and other obligations to cash management banks with respect to the provision of cash management services (but not other obligations); and

(xxi) Liens incurred to secure any Notes issued in connection with a Permitted Material Acquisition pursuant to the Permitted Escrow Transactions with respect to such Notes; provided that such Liens are discharged and released on the earliest to occur of (i) the release of the Permitted Escrow Funds with respect to such Notes to pay a portion of the consideration for such Permitted Material Acquisition in connection with the consummation thereof, (ii) the release of the Permitted Escrow Funds with respect to such Notes to repay in full the principal of and accrued interest on such Notes in the event that the acquisition agreement relating to such Permitted Material Acquisition is terminated in accordance with its terms prior to the consummation of such Permitted Material Acquisition or such Permitted Material Acquisition is abandoned and (iii) the date of the termination of the escrow period provided in the escrow agreement applicable to such Notes.

For purposes of determining compliance with this Section 6.02(a), (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens described in this Section 6.02(a) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens described in this Section 6.02(a), the Company may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify, such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will only be required to include the amount and type of such Lien (and portion of Indebtedness secured thereby) in one of the above clauses, and such Lien securing such item of Indebtedness will be treated as being incurred or existing pursuant to only one of such clauses.

(b) Notwithstanding the foregoing, no Subsidiary that is a Designated Subsidiary as of the Effective Date shall create, incur, assume or permit to exist any Lien (other than any non-consensual Lien or any Lien of the type referred to in Section 6.02(a)(iv)) on any Equity Interests that are required by the Collateral and Guarantee Requirement to be pledged as Collateral (or, in the case of Equity Interests of any Foreign Subsidiary or CFC Holdco, Equity Interests that would be required to be pledged if such Subsidiary became a Material Subsidiary), except pursuant to the Security Documents.

(c) Notwithstanding the foregoing, neither the Company nor any Subsidiary shall grant to any third party any license or sublicense of Intellectual Property; provided that the foregoing will not restrict or prohibit (i) non-exclusive licenses and sublicenses of Intellectual Property entered into in the ordinary course of business in compliance with clause (a)(xiv) above; (ii) exclusive licenses and sublicenses of Intellectual Property in compliance with clause (a)(xiv) above that are on arms-length terms and are exclusive only in respect of fields of use that are not included in the business of the Company and its Subsidiaries in any material respect and (iii) Economic IP Transfers.

### SECTION 6.03. Fundamental Changes; Business Activities

(a) None of the Company or any Subsidiary will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing, (i) any Person may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Person (other than the Company) may merge or consolidate with any Foreign Borrower in a transaction in which the surviving entity is a Foreign Borrower, (iii) any Person (other than a Borrower) may merge or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (and, if any party to such merger or consolidation is a Subsidiary Loan Party, is a Subsidiary Loan Party), (iv) any Subsidiary may merge into or consolidate with any Person (other than a Borrower) in a transaction permitted under Section 6.05 in which, after giving effect to such transaction, the surviving entity is not a Subsidiary, and (v) any Subsidiary (other than a Foreign Borrower, unless such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders; provided that the assets and operations of any Material Subsidiary that is liquidated or dissolved shall be transferred to the Company, a Subsidiary Loan Party, or the direct holder of the Equity Interests of such Material Subsidiary in connection therewith.

(b) None of the Company or any Subsidiary will engage to any material extent in any business other than businesses of the type conducted by the Company and the Subsidiaries on the date hereof and businesses reasonably related thereto.

(c) The Company will not permit any Person other than the Company, one or more of its subsidiaries that is not a CFC and minority investors in Excluded Subsidiaries, to own any Equity Interests in any Domestic Subsidiary (other than as a result of an acquisition of a CFC that owns Equity Interests in a Domestic Subsidiary and such ownership structure is not established in contemplation of such acquisition). Notwithstanding the foregoing, a CFC may own the Equity Interests of a CFC Holdco.

(d) Notwithstanding any provision to the contrary herein, (i) the Company will not, and will not permit any Subsidiary to, sell, transfer or contribute any Equity Interests or operating assets of the Company or any Subsidiary to Lower Fox River Remediation LLC, (ii) so long as Lower Fox River Remediation LLC is a Subsidiary, neither the Company nor any Subsidiary shall create, incur, assume or permit to exist any Lien (other than any non-consensual Liens or any Lien of the type referred to in Section 6.02(iv) or (vii)) on the Equity Interests of Lower Fox River Remediation LLC, (iii) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC shall not create, incur, assume or permit to exist any Indebtedness for borrowed money, and (iv) so long as Lower Fox River Remediation LLC is a Subsidiary, Lower Fox River Remediation LLC will not engage to any material extent in any business other than environmental remediation and retaining the services of engineering, other advisory firms and other service providers in connection therewith.

#### SECTION 6.04. Acquisitions

2 The Company will not consummate, and will not permit any Subsidiary to consummate: (i) any Material Acquisition for consideration in excess of \$75,000,000 other than a Permitted Acquisition; and (ii) other Investments (excluding Investments in Subsidiaries by the Company or other Subsidiaries that do not involve third parties) if the amount of any such Investment is in excess of \$75,000,000 unless, after giving effect thereto, the Company is in Pro Forma Compliance with the covenant set forth in Section 6.12.

#### SECTION 6.05. Asset Sales

2 None of the Company or any Subsidiary will sell, transfer, lease or otherwise dispose of (including pursuant to any transfer or contribution to a Subsidiary), or exclusively license, any asset, including any Equity Interest owned by it, nor will any Subsidiary issue any additional Equity Interest in such Subsidiary (other than to the Company or a Subsidiary, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law) (each, a "Disposition"; provided that an Economic IP Transfer shall not constitute a Disposition), except:

(a) Dispositions of inventory or used or surplus equipment in the ordinary course of business or of cash and Permitted Investments and the granting of non-exclusive licenses and sublicenses of Intellectual Property in the ordinary course of business;

(b) Dispositions to the Company or any Subsidiary; provided that any such Dispositions involving a Subsidiary that is not a Guarantor Loan Party shall be made in compliance with Section 6.09; provided that no Disposition of Intellectual Property material to the business or operations of the Company and its Subsidiaries, taken as a whole, owned by a Guarantor Loan Party may be made to a Subsidiary that is not a Guarantor Loan Party pursuant to this clause (b);

(c)(i) Dispositions of Receivables in connection with the compromise or collection thereof in the ordinary course of business and not as part of any Permitted Receivables Facility and (ii) Dispositions of Receivables pursuant to a Permitted Receivables Facility;

(d) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement property;

(e) any Permitted IP Transfer;

(f) sales by the Company or Subsidiaries of Receivables to one or more Receivables Subsidiaries in connection with any Permitted Receivables Facility; provided that (i) each such Permitted Receivables Facility is effected on terms which are considered customary for such a facility, as determined in good faith by the Company or such Subsidiary, (ii) the aggregate amount of the Seller's Retained Interests in such Permitted Receivables Facilities does not exceed an amount at any time outstanding that is customary for similar transactions, as determined in good faith by the Company or such

Subsidiary and (iii) the proceeds to each such Receivables Subsidiary from the issuance of Third Party Interests are applied substantially simultaneously with the receipt thereof to the purchase from the Company or Subsidiaries of Receivables;

(g) Scheduled Dispositions and Sale/Leaseback Transactions permitted by Section 6.06;

(h) the issuance to Scopus Industrial or its Affiliates of 49% of the outstanding common Equity Interests of NCR Manaus pursuant to the Brazil Subscription Agreement;

(i) Dispositions of assets subject to any casualty or condemnation proceeding (including in lieu thereof);

(j) Dispositions of Investments in joint ventures (other than NCR Manaus) to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements and, to the extent made pursuant to the requirements of the Brazil Shareholders' Agreement, any sale or Disposition of Equity Interests of NCR Manaus to Scopus Industrial or its Affiliates or designees upon their exercise of call rights under such agreement;

(k) Dispositions of assets that are not permitted by any other clause of this Section; provided that all Dispositions made in reliance on this clause shall be made for fair value and at least 75% Cash Consideration; provided, further, that any Designated Non-Cash Consideration received by the Company or any of its Subsidiaries in respect of such sale, transfer, lease or other disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not in excess of \$25,000,000 at the time of the receipt of such Designated Non-Cash Consideration, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be Cash Consideration;

(l) the sale by Retalix, Ltd. or a subsidiary of Retalix, Ltd. of, or the issuance by any subsidiary of Retalix, Ltd. of, Equity Interests in a subsidiary of Retalix, Ltd. to any Person upon the exercise of options or rights to acquire such Equity Interests outstanding prior to the date on which Retalix, Ltd. became a Subsidiary and not granted in contemplation thereof; and

(m) Dispositions of assets related to the business of the Company and its Subsidiaries to one or more joint ventures in exchange for Equity Interests in such joint ventures; provided that the aggregate book value of all assets Disposed of in reliance on this clause after the Effective Date shall not exceed the greater of (x) \$200,000,000 and (y) 2.5% of Consolidated Total Assets as of the end of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) hereof.

“Cash Consideration” means, in respect of any Disposition by the Company or any Subsidiary, (a) cash or Permitted Investments received by it in consideration of such Disposition, (b) any liabilities (as shown on the most recent balance sheet of the Company provided hereunder or in the footnotes thereto) of the Company or such Subsidiary, other than liabilities that are by their terms subordinated in right of payment to the Loan Document Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Company and all of the Subsidiaries shall have been validly released by all applicable creditors in writing and (c) any securities received by the Company or such Subsidiary from such transferee that are converted by the Company or such Subsidiary into cash or Permitted Investments (to the extent of the cash or Permitted Investments received) within 90 days following the closing of the applicable Disposition.

Notwithstanding the foregoing, and other than Dispositions to the Company or a Subsidiary, and other than directors’ qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under Requirements of Law, (i) no Disposition of any Equity Interests in any Subsidiary during a Pledge Effectiveness Period, or in any Foreign Borrower or Subsidiary Loan Party at any other time, shall be permitted unless, except with respect to any Foreign Borrower or Subsidiary Loan Party in the case of clause (g), (h), (j) or (l) above, such Equity Interests constitute all the Equity Interests in such Subsidiary held by the Company and the Subsidiaries, and in the case of any Disposition of a Foreign Borrower, such Foreign Borrower shall substantially contemporaneously cease to be a Foreign Borrower in accordance with Section 2.23 and (ii) any Disposition of any assets pursuant to this Section 6.05 (except for those involving no party that is not a Loan Party), shall be for no less than the fair market value of such assets at the time of such Disposition.

#### SECTION 6.06. Sale/Leaseback Transactions

None of the Company or any Subsidiary will enter into any Sale/Leaseback Transaction, except for any such sale of any fixed or capital assets by any Subsidiary that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 180 days after such Subsidiary acquires or completes the construction of such fixed or capital asset (unless such Sale/Leaseback Transaction is entered into in order to effect a Scheduled Disposition of assets reflected as such in the letters provided to the Administrative Agent prior to the Effective Date); provided that (a) the sale or transfer of the property thereunder is permitted under Section 6.05, (b) any Capital Lease Obligations and Synthetic Lease Obligations arising in connection therewith are permitted under Section 6.01 and (c) any Liens arising in connection therewith (including Liens deemed to arise in connection with any such Capital Lease Obligations and Synthetic Lease Obligations) are permitted under Section 6.02.

#### SECTION 6.07. Hedging Agreements

None of the Company or any Subsidiary will enter into any Hedging Agreement, except (a) Hedging Agreements entered into to hedge or mitigate risks to which the Company or any Subsidiary has actual exposure (other than in respect of Equity Interests or Indebtedness of the



Company or any Subsidiary) and (b) Hedging Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Company or any Subsidiary.

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness

(a) None of the Company or any Subsidiary will declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that (i) the Company may declare and pay dividends with respect to its Equity Interests payable solely in additional Equity Interests permitted hereunder, (ii) any Subsidiary may declare and pay dividends or make other distributions with respect to its capital stock, partnership or membership interests or other similar Equity Interests, or make other Restricted Payments in respect of its Equity Interests, in each case ratably to the holders of such Equity Interests or its Equity Interests of the relevant class, as the case may be, (iii) the Company may acquire Equity Interests upon the exercise of stock options if such Equity Interests are transferred in satisfaction of a portion of the exercise price of such options, (iv) the Company may make cash payments in lieu of the issuance of fractional shares representing insignificant interests in the Company in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests in the Company, (v) the Company may make Restricted Payments, not exceeding \$5,000,000 in the aggregate for any fiscal year, pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, officers or employees of the Company and the Subsidiaries; provided, however, that any such permitted amount not utilized in a particular fiscal year may be carried forward and utilized in subsequent fiscal years, (vi) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments in an amount not exceeding the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such Restricted Payment in reliance on this clause (vi), (vii) so long as no Default or Event of Default shall have occurred and be continuing, the Company may make Restricted Payments in respect of Equity Interests of the Company in an amount not to exceed (x) \$50,000,000 in the aggregate during the fiscal year ended December 31, 2019, and (y) \$50,000,000 in the aggregate during any fiscal year thereafter; provided, however, that any such permitted amount not utilized to make Restricted Payments in a particular fiscal year may be carried forward and utilized to make Restricted Payments in subsequent fiscal years, (viii) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto, the Company may make Restricted Payments with respect to, and in connection with, redemptions of the Existing Preferred, (ix) so long as no Default shall have occurred and be continuing and the Company shall be in Pro Forma Compliance with the covenant set forth in Section 6.12 after giving effect thereto (determined, however, solely for purposes of this clause (ix) by subtracting 0.50 from the financial covenant level otherwise applicable in Section 6.12), the Company may make other Restricted Payments, (x) any Foreign Subsidiary may make Restricted Payments to redeem its outstanding Equity Interests held by minority investors in such Foreign Subsidiary and (xi) in the case of a Receivables Subsidiary, to make Restricted Payments in respect of the

Seller's Retained Interests or other applicable Equity Interests to the extent of net income or other assets available therefor.

(b) Prior to the Investment Grade Date, none of the Company or any Subsidiary will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Junior Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, defeasance, cancellation or termination of any Junior Indebtedness, except:

(i) regularly scheduled interest and principal payments as and when due in respect of any Junior Indebtedness, and any payments or prepayments in respect of Junior Indebtedness owed by any Loan Party to the Company or any Subsidiary, in each case other than payments in respect of Junior Indebtedness prohibited by the subordination provisions thereof;

(ii) refinancings of Junior Indebtedness to the extent permitted under Section 6.01;

(iii) the conversion of any Junior Indebtedness to Equity Interests (other than Disqualified Equity Interests) of the Company;

(iv) payments of secured Junior Indebtedness that becomes due as a result of the voluntary sale or transfer of the assets securing such Junior Indebtedness in transactions permitted hereunder;

(v) payments of or in respect of Junior Indebtedness made solely with Equity Interests in the Company (other than Disqualified Equity Interests); and

(vi) so long as no Default shall have occurred and be continuing, any payment of or in respect of Junior Indebtedness in an amount not in excess of the Available Amount and the then available amount of Qualifying Equity Proceeds, in each case, immediately prior to the making of such payment in reliance on this clause (vi).

#### SECTION 6.09. Transactions with Affiliates

None of the Company or any Subsidiary will sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that are at prices and on terms and conditions not less favorable to the Company or such Subsidiary than those that would prevail in arm's-length transactions with unrelated third parties, (b) transactions between or among the Guarantor Loan Parties not involving any other Affiliate, (c) any Restricted Payment permitted under Section 6.08, (d) issuances by the Company of Equity Interests, (e) compensation, expense reimbursement and indemnification of, and other employment arrangements with, directors, officers and employees of the Company or any Subsidiary entered in the ordinary course of business, (f) ~~Permitted IP Transfers~~ Dispositions between Subsidiaries

of the Company or between the Company and any Subsidiary of the Company permitted under Section 6.05, (g) transactions required by and effected in accordance with the terms of the Brazil Transaction Documents, (h) payroll, travel and similar advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (i) loans or advances to directors and employees of the Company or any Subsidiary on customary terms and made in the ordinary course of business, (j) transactions between or among non-Loan Parties not involving any other Affiliate ~~and~~, (k) in connection with any Permitted Receivables Facility and (l) Indebtedness of the Company or any Subsidiary to the Company or any other Subsidiary permitted under Section 6.01.

#### SECTION 6.10. Restrictive Agreements

None of the Company or any Subsidiary will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that restricts or imposes any condition upon (a) the ability of the Company or any Subsidiary to create, incur or permit to exist any Lien upon any of its assets to secure any Obligations or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to its Equity Interests or to make or repay loans or advances to the Company or any Subsidiary or to Guarantee Indebtedness of the Company or any Subsidiary; provided that (i) the foregoing shall not apply to (A) restrictions and conditions imposed by Requirements of Law or by any Loan Document, (B) restrictions and conditions existing on the Effective Date identified on Schedule 6.10 (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), (C) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreement (including in the case of NCR Manaus, restrictions and conditions set forth in the Brazil Transaction Documents); provided that such restrictions and conditions apply only to such Subsidiary and to any Equity Interests in such Subsidiary, and (D) restrictions and conditions imposed by transactional agreements and documents (including organizational documents of Receivables Subsidiaries) governing Permitted Receivables Facilities and related Indebtedness permitted by clause (xi) of Section 6.01(a) and by Section 6.05(f); provided that any such restrictions and conditions (I) are customary and usual for such Permitted Receivables Facilities, as determined in good faith by the Company or such Subsidiary, (II) in the case of restrictions and conditions of the type referred to in clause (a) of the foregoing, apply only to assets of and Interests in such Receivables Subsidiary, and, in the case of any Intercompany Permitted Receivables Facility Note issued by such Receivables Subsidiary that is held in whole or in part by the Company or any Subsidiary, permits the pledge of such Intercompany Permitted Receivables Facility Note to secure the Obligations, subject, if applicable, to the terms of any intercreditor agreement, subordination agreement or similar agreement with respect thereto that is reasonably acceptable to the parties thereto, (ii) clause (a) of the foregoing shall not apply to (A) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by clause (v) of Section 6.01(a) if such restrictions or conditions apply only to the assets securing such Indebtedness or (B) customary provisions in leases and other agreements restricting the assignment thereof, (iii) the foregoing shall not apply to (A) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary, or a business unit, division, product line or line of business or other assets in a transaction permitted by Section 6.05, that are applicable solely pending such

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sale; provided that such restrictions and conditions apply only to the Subsidiary, or the business unit, division, product line or line of business or other asset, that is to be sold and such sale is permitted hereunder, (B) restrictions and conditions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and otherwise permitted by clause (vi) of Section 6.01(a) (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition); provided that such restrictions and conditions apply only to such Subsidiary and were not incurred in contemplation of such acquisition, and (C) restrictions and conditions imposed by agreements relating to Indebtedness of Foreign Subsidiaries permitted under Section 6.01(a); provided that such restrictions and conditions apply only to Foreign Subsidiaries, and (iv) clause (b) of the foregoing shall not apply to restrictions and conditions imposed pursuant to Permitted Additional Indebtedness incurred pursuant to Section 6.01 that are not more restrictive than the terms hereof, as reasonably determined by the Company. Nothing in this paragraph shall be deemed to modify the requirements set forth in the definition of the term “Collateral and Guarantee Requirement” or the obligations of the Loan Parties under Sections 5.03, 5.04 or 5.12 or under the Security Documents.

#### SECTION 6.11. Amendment of Material Documents

None of the Company or any Subsidiary will amend, modify or waive any of its rights under (i) any agreement or instrument governing or evidencing any Junior Indebtedness, (ii) its certificate of incorporation, bylaws or other organizational documents, or (iii) any of the Brazil Transaction Documents, in each case to the extent such amendment, modification or waiver could reasonably be expected to be adverse in any material respect to the Lenders.

#### SECTION 6.12. Leverage Ratio

The Company will not permit the Leverage Ratio on the last day of any fiscal quarter of the Company to exceed the Permitted Leverage Ratio then in effect. The provisions of Section 6.12 are solely for the benefit of Revolving Lenders and, notwithstanding the provisions of Section 9.02, a Majority in Interest of the Revolving Lenders (excluding the Revolving Commitments and Revolving Exposure of Defaulting Lenders) may (i) amend or otherwise modify Section 6.12 or, solely for purposes of Section 6.12, the defined terms used, directly or indirectly, therein, or (ii) waive any noncompliance with Section 6.12 or any Event of Default resulting from any such noncompliance, in each case without the consent of any other Lenders.

#### SECTION 6.13. Fiscal Year

The Company will not, and the Company will not permit any other Loan Party to, change its fiscal year to end on a date other than December 31.

### ARTICLE VII

#### Events of Default

If any of the following events (“Events of Default”) shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five days;

(c) any representation or warranty made or deemed made by or on behalf of any Borrower or any Subsidiary in or in connection with any Loan Document or any amendment or modification thereof or waiver thereunder, or in any report, certificate, financial statement or other information furnished pursuant to any Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) any Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03, 5.05 (with respect to the existence of the Borrowers), 5.11 or 5.14 or in Article VI; provided that any failure to comply with the Section 6.12 shall not constitute an Event of Default with respect to any Term Loans unless and until the Administrative Agent or a Majority in Interest of the Revolving Lenders shall have terminated the Revolving Commitments and/or declared the Revolving Loans then outstanding to be due and payable in accordance with this Article VII;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b) or (d) of this Article VII), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent or any Lender to the Company (with a copy to the Administrative Agent in the case of any such notice from a Lender);

(f) any Borrower or any Subsidiary shall fail to make any payment (whether of principal, interest, termination payment or other payment obligation and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, after giving effect to any period of grace specified for such payment in the agreement or instrument governing such Material Indebtedness;

(g)(i) any event or condition occurs that results in any Material Indebtedness (other than with respect to any Hedging Agreements) becoming due and payable (or subject to compulsory repurchase or redemption) prior to its scheduled maturity or that enables or permits, in each case after the expiration of the grace period, if any, provided for therein, the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause such Material Indebtedness to become due and

payable (or require a compulsory repurchase or redemption thereof) prior to its stated maturity or (ii) an “early termination date” (or equivalent event) under any Hedging Agreement constituting Material Indebtedness shall occur as a result of any event of default, “termination event” (or equivalent event) under such Hedging Agreement as to which the Company or any Subsidiary is the “defaulting party” or “affected party” (or equivalent term) as a result of which the Company or any Subsidiary is required to pay, or that enables the applicable counterparty, after the expiration of the grace period, if any, provided for therein, to require the Company or any Subsidiary to pay, the termination value in respect of such Hedging Agreement; provided that this clause (g) shall not apply to (A) any secured Indebtedness that becomes due as a result of a casualty event in respect of or the voluntary sale or transfer of the assets securing such Indebtedness or (B) any Indebtedness that becomes due as a result of a refinancing thereof permitted under Section 6.01;

(h) one or more ERISA Events shall have occurred that, in the opinion of the Required Lenders, could, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Borrower or any Material Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect or (ii) the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or a Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(j) any Borrower or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation permitted by clause (v) of Section 6.03(a)), reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership, examinership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (i) of this Article VII, (iii) apply for or consent to the appointment of a receiver, examiner, trustee, custodian, sequestrator, conservator or similar official for a Borrower or any Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding or (v) make a general assignment for the benefit of creditors, or the board of directors (or similar governing body) of a Borrower or any Material Subsidiary (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to above in this clause (j) or clause (i) of this Article VII;

(k) any Borrower or any Material Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(l) one or more judgments for the payment of money in an aggregate amount in excess of (x) \$150,000,000 in the case of a Borrower or any Domestic Subsidiary or (y) \$150,000,000 in the case of other Foreign Subsidiaries (other than any such judgment covered by insurance (other than under a self-insurance program) to the extent a claim therefor has been made in writing and liability therefor has not been denied by the insurer) and in excess of amounts covered by indemnification obligations of third parties that shall have the financial capacity to pay such obligations (in the case of each such third party, to the extent a claim therefor has been made in writing and liability therefor has not been denied by such third party), shall be rendered against any Borrower, any Subsidiary or any combination thereof and the same shall remain unpaid or undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Borrower or any Subsidiary to enforce any such judgment;

(m) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any material Collateral, with the priority required by the applicable Security Document, except as a result of (i) a sale or transfer of the applicable Collateral in a transaction permitted under the Loan Documents, (ii) the Administrative Agent's failure to maintain possession of any stock certificate, promissory note or other instrument delivered to it under the Collateral Agreement or to maintain in effect Uniform Commercial Code financing statements, unless such failure is attributable to any failure of a Loan Party to perform its obligations under any Loan Document or (iii) the occurrence of a Release Date and the exercise by the Company of its rights under Section 9.14(b);

(n) any Guarantee of a Loan Party purported to be created under any Loan Document shall cease to be, or shall be asserted by any Loan Party not to be, in full force and effect, except upon the consummation of any transaction permitted under this Agreement as a result of which the Subsidiary Loan Party providing such Guarantee ceases to be a Subsidiary;  
or

(o) a Change in Control;

then, and in every such event (other than an event with respect to any Borrower described in clause (i) or (j) of this Article VII), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Company, take any or all of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part (but ratably as among the Classes of Loans and the Loans of each Class at the time outstanding), in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall become due and payable immediately and (iii) require the deposit of cash collateral in respect of LC Exposure as provided in Section 2.04(i), in each case without

presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; and in the case of any event with respect to any Borrower described in clause (i) or (j) of this Article, the Commitments shall automatically terminate, the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers hereunder, shall immediately and automatically become due and payable and the deposit of such cash collateral in respect of LC Exposure shall immediately and automatically become due, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower; provided, however, that upon the occurrence and during the continuance of any Event of Default attributable to a failure to comply with Section 6.12, (x) actions pursuant to clause (i) or (ii) may be taken by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) with respect to the Revolving Loans only (without the requirement for Required Lender action) or by the Administrative Agent at the direction of such Lenders, and (y) only if action has been taken in respect of such Event of Default under clause (i) or (ii) (with respect to the Revolving Loans) by a Majority in Interest of the Revolving Lenders (excluding any Defaulting Lenders) or by the Administrative Agent at the direction of such Lenders, then such Event of Default will be deemed to be an Event of Default with respect to all Lenders hereunder and the remedies set forth above can be exercised in respect of all Loans.

In addition to any other rights and remedies granted to the Administrative Agent and the Lenders in the Loan Documents, the Administrative Agent on behalf of the Lenders may exercise all rights and remedies of a secured party under the Uniform Commercial Code or any other applicable law. Without limiting the generality of the foregoing, in connection with the exercise of rights under this Article VII, the Administrative Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Loan Party or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, or consent to the use by the Loan Parties of any cash collateral arising in respect of the Collateral on such terms as the Administrative Agent deems reasonable, and/or may forthwith sell, lease, assign give an option or options to purchase or otherwise dispose of and deliver, or acquire by credit bid on behalf of the Lenders, the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Administrative Agent or any Lender or elsewhere, upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery, all without assumption of any credit risk. The Administrative Agent or any Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Loan Party, which right or equity is hereby waived and released. Each Loan Party further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places which the Administrative Agent shall reasonably select, whether at such Loan Party's premises or elsewhere. The Administrative Agent shall apply the net proceeds of any action taken by it pursuant to this Article VII, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or



safekeeping of any of the Collateral or in any other way relating to the Collateral or the rights of the Administrative Agent and the Lenders hereunder, including attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect subject to Section 5.02 of the Collateral Agreement, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including Section 9-615(a)(3) of the Uniform Commercial Code, need the Administrative Agent account for the surplus, if any, to any Loan Party. To the extent permitted by applicable law, each Loan Party waives all claims, damages and demands it may acquire against the Administrative Agent or any Lender arising out of the exercise by them of any rights under this paragraph after the occurrence of an Event of Default. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. It is expressly noted that the provisions of this paragraph shall not apply to any Collateral which is subject to a Luxembourg law governed Foreign Pledge Agreement (the "Luxembourg Security"), and that only the provisions of the relevant Luxembourg Security shall apply to such Collateral.

## ARTICLE VIII

### The Administrative Agent

Each of the Lenders and the Issuing Banks hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors to serve as administrative agent and collateral agent under the Loan Documents, and authorizes the Administrative Agent to take such actions and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto, including entering into any intercreditor agreement contemplated by Section 6.02(a)(xvii). In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders and the Issuing Banks hereby grants to the Administrative Agent any required powers of attorney to execute any Security Document governed by the laws of such jurisdiction on such Lender's or Issuing Bank's behalf.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender or an Issuing Bank as any other Lender or Issuing Bank and may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or to exercise any discretionary power,

except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion, could expose the Administrative Agent to liability or be contrary to any Loan Document or applicable law and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company, any Subsidiary or any other Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or in the absence of its own gross negligence or wilful misconduct, as determined by a court of competent jurisdiction by a final and non-appealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Company, a Lender or an Issuing Bank, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not have any liability arising from any confirmation of the Revolving Exposure or the component amounts thereof.

The Administrative Agent shall be entitled to rely, and shall not incur any liability for relying, upon any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent also shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to be made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof), and may act upon any such statement prior to receipt of written confirmation thereof. The Administrative Agent may consult with legal counsel (who may be counsel for any Borrower), independent accountants and

other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any of and all its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of and all their duties and exercise their rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the terms of this paragraph, the Administrative Agent may resign at any time from its capacity as such. In connection with such resignation, the Administrative Agent shall give notice of its intent to resign to the Lenders, the Issuing Banks and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Company (which shall not be unreasonably withheld), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, with the consent of the Company (which shall not be unreasonably withheld), appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date, whereupon the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the removed Administrative Agent; provided that, in each case, (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed by the Company and such successor. Notwithstanding the foregoing, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the

effectiveness of its resignation to the Lenders, the Issuing Banks and the Company, whereupon, on the date of effectiveness of such resignation stated in such notice, (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Security Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this paragraph (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (b) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation or removal from its capacity as such, the provisions of this Article and Section 9.03, as well as any absence of fiduciary duty (and related exculpatory provisions), reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Each Lender and Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arrangers or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Effective Date, or delivering its signature page to an Assignment and Assumption or an Incremental Facility Agreement pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

No Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition. Each Secured Party hereby (or in the case of each Secured Party that is not a Credit Party, by its acceptance of the benefits of the Security Documents and the Collateral and of the Guarantees of the Obligations provided under the Loan Documents) irrevocably authorizes the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations are

assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

In furtherance of the foregoing and not in limitation thereof, no Hedging Agreement, agreement with respect to cash management obligations, agreement with respect to Secured Performance Support Obligations or other agreement (other than the Loan Documents) the obligations under which constitute Obligations will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such Hedging Agreement, agreement with respect to Secured Performance Support Obligations or other agreement shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, (i) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(a)(v) and (ii) to agree to or enter into subordination or intercreditor agreements applicable to any Interests in any Receivables Subsidiary or any interest in Receivables subject to a Permitted Receivables Facility, in each case to the extent pledged under any Security Document to secure the Obligations. The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

Notwithstanding anything herein to the contrary, neither the Arrangers nor any Person named on the cover page of this Agreement as a Joint Syndication Agent, Co-Documentation Agent, Joint Lead Arranger or Joint Bookrunner shall have any duties or obligations under this Agreement or any other Loan Document (except in its capacity, as applicable, as a Lender or an Issuing Bank), but all such Persons shall have the benefit of the indemnities provided for hereunder.

The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and none of the Borrowers or any other Loan Party shall have any rights as a third party beneficiary of any such provisions except as set forth herein with respect to the Company's consent rights to successor Administrative Agents.

Each Lender represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement;

(iii)(A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless (1) the immediately preceding clause (i) is true with respect to such Lender or (2) such Lender has provided another representation, warranty and covenant as provided in the immediately preceding clause (iv), such Lender further represents and warrants, as of the date such Person became a Lender party hereto, to, and covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the institutions named as Joint Lead Arrangers, Joint Bookrunners, Syndication Agent and Documentation Agents on the cover page hereof and their respective Affiliates, and not to or for the benefit of the Company or any of its Subsidiaries, that none of the Administrative Agent or any of the institutions named as Joint Lead Arrangers, Joint Bookrunners, Co-Syndication Agents and Co-Documents Agents on the cover page hereof or their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by any Person under this Agreement, any Loan Document or any documents related hereto or thereto).

## ARTICLE IX

### Miscellaneous

#### SECTION 9.01. Notices

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(i) if to any Borrower or the Borrower Agent, to it at NCR Corporation, 3095 Satellite Boulevard, Duluth, Georgia 30096, Attention of Treasurer (Fax No. 678-808-5207) (email: John.Boudreau@ncr.com), with a copy to NCR Corporation, 3097 Satellite Boulevard, Duluth, Georgia, 30096, Attention: General Counsel/Notices, 2nd Floor (email: law.notices@ncr.com);

(ii) if to the Administrative Agent with respect to any Borrowing, Letter of Credit or LC Disbursement denominated in Euros or Sterling, to J.P. Morgan Europe Limited, Loans Agency 6th floor, 25 Bank Street, Canary Wharf, London E145JP, United Kingdom, Attention: Loans Agency, Fax No. +44 20 7777 2360 (email: loan\_and\_agency\_london@jpmorgan.com), with a copy to the Persons set forth in clause (iii) below;

(iii) if to the Administrative Agent with respect to any Borrowings, Letter of Credit or LC Disbursements denominated in Dollars, Euros or Sterling, to Loan and Agency Services Group, 500 Stanton Christiana Road, NCC5, Newark, Delaware



19713-2107, Attention: Mary Crews (Telephone No. 302-634-5758 and mary.crews@jpmorgan.com);

(iv)if to any Issuing Bank, to it at its address (or fax number) most recently specified by it in a notice delivered to the Administrative Agent and the Company (or, in the absence of any such notice, to the address (or fax number) set forth in the Administrative Questionnaire of the Lender that is serving as such Issuing Bank or is an Affiliate thereof); and

(v)if to any other Lender, to it at its address (or fax number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by fax shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); and notices delivered through electronic communications to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b)Notices and other communications to the Lenders and Issuing Banks hereunder may be delivered or furnished by electronic communications (including email and Internet and intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices under Article II to any Lender or Issuing Bank if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Any notices or other communications to the Administrative Agent or the Company may be delivered or furnished by electronic communications pursuant to procedures approved by the recipient thereof prior thereto; provided that approval of such procedures may be limited or rescinded by any such Person by notice to each other such Person. Notices delivered by electronic mail (or notice of electronic posting) shall be deemed received upon sending, if sent during business hours, or, otherwise upon opening of the next Business Day unless the sender receives a notice of non-delivery.

(c)Any party hereto may change its address, e-mail or fax number for notices and other communications hereunder by written notice to the other parties hereto.

(d)Each Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communication by posting such Communication on DebtDomain, Intralinks, Syndtrak or a similar electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available". Neither the Administrative Agent nor any of its Related Parties warrants, or shall be deemed to 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 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, or shall be deemed to be made, by the Administrative Agent or any of its Related Parties in connection with the Communications or the Platform. In no event shall the Administrative

Agent or any of its Related Parties have any liability to any Borrower, any Lender, any Issuing 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 any Borrower's or the Administrative Agent's transmission of Communications through the Platform, except to the extent of direct or actual damages (and not any special, indirect, consequential or punitive damages) that are determined by a court of competent jurisdiction in a final and non-appealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of the Administrative Agent or its affiliates, officers or employees in performing the services hereunder.

#### SECTION 9.02. Waivers; Amendments

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Without limiting the generality of the foregoing, the execution and delivery of this Agreement, the making of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Sections 2.13, 2.20, 2.21 and 2.23 and in the Collateral Agreement, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Company, the Administrative Agent and the Required Lenders and, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders; provided that (i) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Company and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment and (ii) no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender (it being understood that a waiver of any condition precedent or the waiver of any Default, Event of Default or mandatory prepayment shall not constitute an increase of any commitment), (B) reduce the principal amount of any Loan or LC

Disbursement or reduce the rate of interest thereon (other than as a result of (x) any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.12(c), (y) any amendment of any financial covenant herein (or any component definition) or (z) any extension of the date on which financial statements under Section 5.01(a) or 5.01(b) or a Compliance Certificate is required to be delivered, it being understood that a waiver of a Default or any such amendment or extension shall not constitute a reduction of interest for this purpose), or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled maturity date of any Loan, or the date of any scheduled payment of the principal amount of any Term Loan under Section 2.09, or the required date of reimbursement of any LC Disbursement, or any date for the payment of any interest or fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (D) except as provided in Sections 2.20 or 2.21, change Section 2.17(b) or 2.17(c) in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender, (E) except pursuant to an Incremental Facility Agreement or a Permitted Amendment to reflect a new Class of Loans or Commitments hereunder, change any of the provisions of this Section or the percentage set forth in the definition of the term "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as the case may be); provided that, with the consent of the Required Lenders or the Majority in Interest of a Class of Lenders, as the case may be, the provisions of this Section and the definition of the term "Required Lenders" or "Majority in Interest" may be amended to include references to any new class of loans created under this Agreement (or to lenders extending such loans) on substantially the same basis as the corresponding references relating to the existing Classes of Loans or Lenders, (F) release Guarantees constituting all or substantially all the value of the Guarantees under the Collateral Agreement, or limit the liability of Loan Parties in respect of Guarantees constituting such value, or limit its liability in respect thereof, in each case without the written consent of each Lender, (G) release all or substantially all the Collateral from the Liens of the Security Documents, without the written consent of each Lender (except as expressly provided in Section 9.14 or the applicable Security Document (including any such release by the Administrative Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Security Documents), it being understood that an amendment or other modification of the type of obligations secured by the Security Documents shall not be deemed to be a release of the Collateral from the Liens of the Security Documents) and (H) change any provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of Collateral or payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders representing a Majority in Interest of each affected Class; provided, further, that (1) no such agreement shall amend, modify, extend or otherwise affect the rights or obligations of the Administrative Agent or any Issuing Bank without the prior written consent of the Administrative Agent or such Issuing Bank, as the case may be, (2) any amendment, waiver or other modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of a particular Class (but not the Lenders of any other Class), may be effected by an agreement or agreements in writing entered

into by the Company and the requisite number or percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time, (3) any amendment, waiver or other modification of this Agreement with respect to the financial covenant set forth in Section 6.12 (including any breach thereof) and any definitions related thereto (but solely as such definitions are used for purposes of such covenant) may be effected by an agreement or agreements in writing entered into by Parent, the Borrowers and the Majority in Interest of the Revolving Lenders and (4) any amendment, waiver or other modification of Section 4.02 with respect to the funding of any Revolving Loan shall only require the consent of a Majority in Interest of the Revolving Lenders. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of (x) any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (A), (B), (C) or (D) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be affected by such amendment, waiver or other modification or (y) in the case of any vote requiring the approval of all Lenders or each affected Lender, any Lender that receives payment in full of the principal of and interest accrued on each Loan made by, and all other amounts owing to, such Lender or accrued for the account of such Lender under this Agreement and the other Loan Documents at the time such amendment, waiver or other modification becomes effective and whose Commitments terminate by the terms and upon the effectiveness of such amendment, waiver or other modification. Notwithstanding anything herein to the contrary, the Administrative Agent and the Company may, without the consent of any Secured Party or any other Person, amend this Agreement, the Collateral Agreement and any other Security Document to add provisions with respect to “parallel debt” and other non-U.S. guarantee and collateral matters, including any authorizations, collateral trust arrangements or other granting of powers by the Lenders and the other Secured Parties in favor of the Administrative Agent, in each case if such amendment is necessary or desirable to create or perfect, or preserve the validity, legality, enforceability and perfection of, the Guarantees and Liens contemplated to be created pursuant to this Agreement (with the Company hereby agreeing to provide its agreement to any such amendment to this Agreement, the Collateral Agreement or any other Security Document reasonably requested by the Administrative Agent).

(c) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Company, the Required Lenders, the Administrative Agent and each lender providing any additional Revolving Commitment or term loan (A) to increase the Aggregate Revolving Commitments of the Lenders, (B) to add one or more additional tranches of term loans to this Agreement and to provide for the ratable sharing of the benefits of the Loan Documents with the other then outstanding Obligations in respect of the extensions of credit from time to time outstanding under any such additional tranche of term loans and (C) to include appropriately the lenders under any such additional tranche of term loans in any determination of Required Lenders or the determination of the requisite Lenders under any other provision of this Agreement.

(d) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of such Lender. Any amendment, waiver or other modification effected in accordance with this

Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

(e) Notwithstanding anything to the contrary herein, in connection with any determination as to whether the requisite Lenders have (A) consented (or not consented) to any amendment or waiver of any provision of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to any Loan Document or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, any Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to the Loans and/or Commitments (each, a “Net Short Lender”) shall have no right to vote any of its Loans and Commitments and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders (in each case unless otherwise agreed to by the Company). For purposes of determining whether a Lender has a “net short position” on any date of determination: (i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars, (ii) notional amounts in other currencies shall be converted to the Dollar Equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a mid-market basis) on the date of determination, (iii) derivative contracts in respect of an index that includes the Company or any other Loan Party or any instrument issued or guaranteed by the Company or any other Loan Party shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index, (iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (collectively, the “ISDA CDS Definitions”) shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a “Deliverable Obligation” under the terms of such derivative transaction or (z) any of the Company or any other Loan Party (or any of their successors) is designated as a “Reference Entity” under the terms of such derivative transactions, and (v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions are functionally equivalent to a transaction that offers the Lender protection in respect of the Loans or the Commitments, or as to

the credit quality of any of the Company or any other Loan Party (or any of their successors) other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender and (y) the Company or any other Loan Party and any instrument issued or guaranteed by any of the Company or any other Loan Party, collectively, shall represent less than 5% of the components of such index. In connection with any such determination, each Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Lender) shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to the Company and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Company and the Administrative Agent shall be entitled to rely on each such representation and deemed representation). In no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any Lender is a Net Short Lender.

#### SECTION 9.03. Expenses; Indemnity; Damage Waiver

(a) The Company shall pay (i) all reasonable outofpocket expenses incurred by the Administrative Agent, the Managing Arranger and their Affiliates, including expenses incurred in connection with due diligence and the reasonable fees, charges and disbursements of Cravath, Swaine & Moore LLP, local counsel in any foreign jurisdiction, and any other counsel for any of the foregoing retained with the Company's consent (such consent not to be unreasonably withheld, conditioned or delayed), in connection with the structuring, arrangement and syndication of the credit facilities provided for herein and any credit or similar facility refinancing or replacing, in whole or in part, any of the credit facilities provided for herein, including the preparation, execution and delivery of the Engagement Letter and the Fee Letters, as well as the preparation, execution, delivery and administration of this Agreement, the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable outof-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for any of the foregoing, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) The Company shall indemnify the Administrative Agent (and any sub-agent thereof), the Arrangers, each Lender and Issuing Bank (each such Person, an "Indemnified Institution"), and each Related Party of any of the foregoing Persons (each Indemnified Institution and each such Person being called an "Indemnitee"), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the reasonable and documented or invoiced out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee (including reasonable fees, disbursements and other charges of one counsel for all Indemnitees, taken as a whole, and, if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting

in multiple jurisdictions) for all Indemnitees taken as a whole (and, in the case of an actual or perceived conflict of interest, where an Indemnified Institution affected by such conflict informs the Company of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnified Institution)), incurred by or asserted against any Indemnitee arising out of or relating to, based upon, or as a result of (i) the structuring, arrangement and the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of the Engagement Letter, the Fee Letters, this Agreement, the other Loan Documents or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to the Engagement Letter, the Fee Letters, this Agreement or the other Loan Documents of their obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on, at, under or from any property currently or formerly owned, leased or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and whether initiated against or by any party to the Engagement Letter, any Fee Letter, this Agreement or any other Loan Document, any Affiliate of any of the foregoing or any third party (and regardless of whether any Indemnitee is a party thereto and regardless of whether such claim, litigation or proceeding is brought by a third party or by the Company or any of the Subsidiaries); provided that such indemnity shall not, (x) as to any Indemnified Institution, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from (i) the bad faith, gross negligence or willful misconduct of, or material breach of this Agreement by, such Indemnified Institution or any of its Related Parties (as determined by a court of competent jurisdiction in a final and non-appealable decision) or (y) as to any other Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the bad faith, gross negligence or willful misconduct of, or a material breach of this agreement by, such Indemnitee (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(c) To the extent that the Company fails to pay any amount required to be paid by it under paragraph (a) or (b) of this Section to the Administrative Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or any Issuing Bank in connection with such capacity. For purposes of this Section, a Lender's "pro rata share" shall be determined based upon its share of the sum of the total Revolving Exposures, outstanding Term Loans and unused Commitments at the time (or most recently outstanding and in effect).

(d) To the extent permitted by applicable law, the Company shall not assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet) in the absence of willful misconduct, bad faith or gross negligence (as determined by a court of competent jurisdiction in a final, non-appealable decision). To the extent permitted by applicable law, no party hereto shall assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee or any other party hereto or its Affiliates on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided, however, that nothing contained in this sentence will limit the indemnity and reimbursement obligations of the Company set forth in this Section.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

#### SECTION 9.04. Successors and Assigns

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) (it being understood that a merger, consolidation, amalgamation, reorganization, recapitalization or other similar transaction not otherwise prohibited hereunder shall not constitute an assignment or transfer by a Borrower) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section and, in the case of any Revolving Lender and in relation to any rights and obligations of any Revolving Lender toward a Dutch Borrower, to an assignee that is a Dutch Non-Public Lender. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section), the Arrangers and, to the extent expressly contemplated hereby, the sub-agents of the Administrative Agent and the Related Parties of any of the Administrative Agent, any Arranger, any Issuing Bank and any Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b)(i) Notwithstanding anything to the contrary contained herein, neither any Borrower nor any Affiliate of any Borrower may acquire by assignment, participation or otherwise any right to or interest in any of the Commitments or Term Loans hereunder (and any such attempted acquisition shall be null and void). Subject to the conditions set forth in paragraph (b) (ii) below, any Lender may assign to one or more Eligible Assignees all or a



portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A)the Company; provided that no consent of the Company shall be required (1) for an assignment of Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund, (2) for an assignment of Revolving Commitments and associated Revolving Loans to a Revolving Lender or an Affiliate of a Revolving Lender (other than an Approved Fund), (3) in connection with any assignment as part of the initial syndication of the Term Loans or (4) if an Event of Default has occurred and is continuing, for any other assignment; provided, further, that the Company shall be deemed to have consented to any such assignment of Term Loans unless it shall object thereto by written notice to the Administrative Agent within ten Business Days after the Company has received written notice thereof;

(B)the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C)each Issuing Bank with outstanding Letters of Credit in excess of \$20,000,000, in the case of any assignment of all or a portion of a Revolving Commitment or any Lender's obligations in respect of its LC Exposure.

(ii)Assignments shall be subject to the following additional conditions:

(A)except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$500,000, in the case of assignments of Term Loans or Term Commitments, and \$5,000,000, in the case of assignments of Revolving Commitments, in each case unless each of the Company and the Administrative Agent otherwise consents; provided that no such consent of the Company shall be required if an Event of Default has occurred and is continuing;

(B)each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause (B) shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans but not those in respect of a second Class;

(C)the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with, unless waived by the Administrative Agent, a processing and recordation fee of \$3,500; provided that only one such processing and recordation fee shall be payable in the event of simultaneous assignments from any Lender or its Approved Funds to one or more other Approved Funds of such Lender (and if a Loan Party is required to be a party to such assignment it shall not (except in the case of an assignment pursuant to Section 2.18(b)) be required to pay such fee);

(D)the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable law, including Federal, State and foreign securities laws; and

(E)at the time of each assignment pursuant to this Section 9.04(b), the respective assignee shall provide to the relevant Loan Party and the Administrative Agent the appropriate forms and certificates as provided, and cooperate with the relevant Loan Party as required, under Section 2.16.

(iii)Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16, 2.22 and 9.03).

(iv)The Administrative Agent shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and records of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and, as to entries pertaining to it, any Issuing Bank or Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v)Upon receipt by the Administrative Agent of an Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed

Administrative Questionnaire (unless the assignee shall already be a Lender hereunder) and the processing and recordation fee referred to in this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that the Administrative Agent shall not be required to accept such Assignment and Assumption or so record the information contained therein if the Administrative Agent reasonably believes that such Assignment and Assumption lacks any written consent required by this Section or is otherwise not in proper form, it being acknowledged that the Administrative Agent shall have no duty or obligation (and shall incur no liability) with respect to obtaining (or confirming the receipt) of any such written consent or with respect to the form of (or any defect in) such Assignment and Assumption, any such duty and obligation being solely with the assigning Lender and the assignee. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph, and following such recording, unless otherwise determined by the Administrative Agent (such determination to be made in the sole discretion of the Administrative Agent, which determination may be conditioned on the consent of the assigning Lender and the assignee), shall be effective notwithstanding any defect in the Assignment and Assumption relating thereto. Each assigning Lender and the assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the Administrative Agent that all written consents required by this Section with respect thereto (other than the consent of the Administrative Agent) have been obtained and that such Assignment and Assumption is otherwise duly completed and in proper form, and each assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the assigning Lender and the Administrative Agent that such assignee is an Eligible Assignee.

(vi) Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04(b), whether or not such assignment or transfer is reflected in the Register, shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(c)(i) Any Lender may, without the consent of any Borrower, the Administrative Agent or any Issuing Bank, sell participations to one or more Eligible Assignees (“Participants”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and Loans of any Class); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrowers, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or

waiver described in the first proviso to Section 9.02(b) that affects such Participant or requires the approval of all the Lenders. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 2.22 (subject to the requirements and limitations therein, including the requirements under Sections 2.16(f), (g), (h) and (i) (it being understood that the documentation required under Sections 2.16(f), (g), (h) and (i) shall be delivered to the participating Lender and the participating Lender shall ensure that the terms of the participation require the Participant to cooperate as required under Section 2.16(g), (h) and (i))) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (x) agrees to be subject to the provisions of Sections 2.17 and 2.18 as if it were an assignee under paragraph (b) of this Section and (y) shall not be entitled to receive any greater payment under Section 2.14, 2.16 or 2.22, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company's request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 2.18(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.17(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a nonfiduciary agent of each applicable Borrower, maintain a register on which it enters the name and address of each Participant to which it has sold a participation and the principal amounts (and stated interest) of each such Participant's interest in the Loans or other rights and obligations of such Lender under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Loans or other rights and obligations under any this Agreement) except to the extent that such disclosure is necessary to establish that such Loan or other right or obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

#### SECTION 9.05. Survival

⌊ All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied

upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Arranger, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any LC Exposure is outstanding and so long as the Commitments have not expired or terminated. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement or any other Loan Document, in the event that, in connection with the refinancing or repayment in full of the credit facilities provided for herein, an Issuing Bank shall have provided to the Administrative Agent a written consent to the release of the Revolving Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Bank (whether as a result of the obligations of the applicable Borrower (and any other account party) in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Bank, or being supported by a letter of credit that names such Issuing Bank as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents, and the Revolving Lenders shall be deemed to have no participations in such Letter of Credit, and no obligations with respect thereto, under Section 2.04(d) or 2.04(f). The provisions of Sections 2.14, 2.15, 2.16, 2.17(e), 2.22 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

#### SECTION 9.06. Counterparts; Integration; Effectiveness; Electronic Signatures

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties hereto relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof, including the commitments of the Lenders and, if applicable, their Affiliates under the Engagement Letter and any commitment advices submitted by them (but do not supersede any other provisions of the Engagement Letter or the Fee Letters (or any separate letter agreements with respect to fees payable to the Administrative Agent or any Issuing Bank) that do not by the terms of such documents terminate upon the effectiveness of this Agreement, all of which provisions shall remain in full force and effect). Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that, notwithstanding anything contained herein to the contrary, the Administrative Agent shall not be under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

#### SECTION 9.07. Severability

Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

#### SECTION 9.08. Right of Setoff

If an Event of Default shall have occurred and be continuing, each Lender and Issuing Bank, and each Affiliate of any of the foregoing, is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency and whether or not matured) or other amounts at any time held and other obligations (in whatever currency) at any time owing by such Lender or Issuing Bank, or by such an Affiliate, to or for the credit or the account of any Borrower against any of and all the obligations then due of such Borrower now or hereafter existing under this Agreement held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement; provided that such setoff against obligations under this Agreement shall not apply in the case of amounts owed under any Receivables subject to a Permitted Receivables Facility by a Lender, Issuing Bank, or any of its Affiliates. The rights of each Lender and Issuing Bank, and each Affiliate of any of the foregoing, under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, Issuing Bank or Affiliate may have.

#### SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process

(a) This Agreement (including this Section 9.09 (*Governing Law; Jurisdiction; Consent to Service of Process*)) shall be construed in accordance with and governed by the law of the State of New York.

(b) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any Federal court of the United States of America or any court of the State of New York, in each case, sitting in New York County, and any appellate court from any thereof, in any action, suit, proceedings, claims and counterclaims arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined, exclusively in such Federal court or, in the event such Federal court lacks subject matter jurisdiction, such state court. Each of the parties hereto agrees that a final judgment in any such action, suit, proceeding, claim or counterclaim shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Arranger, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or any of its properties in the courts of any jurisdiction.

(c) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action, proceeding, claim or counterclaim arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action, proceeding, claim or counterclaim in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(e) Each Foreign Borrower hereby irrevocably designates and appoints CT Corporation System, National Corporate Research, Ltd., Corporation Services Company or another nationally recognized service firm as its authorized agent, to accept and acknowledge on its behalf, service of any and all process which may be served in any suit, action or proceeding of the nature referred to in paragraph (b) of this Section in any Federal or New York State court sitting in the County of New York. Each Foreign Borrower represents and warrants that such agent has agreed in writing to accept such appointment and that a true copy of such designation and acceptance has been delivered to the Administrative Agent. If such agent shall cease so to act, each Foreign Borrower covenants and agrees to designate irrevocably and appoint without delay another such agent satisfactory to the Administrative Agent and to deliver promptly to the Administrative Agent evidence in writing of such other agent's acceptance of such appointment.

#### SECTION 9.10. WAIVER OF JURY TRIAL

**Each Party hereto hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any suit, action, proceeding, claim or counterclaim directly or indirectly arising out of or relating to this agreement, any other loan document or the transactions contemplated hereby (whether based on contract, tort or any other theory). Each party hereto (A) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (B) acknowledges that it and the other parties hereto have been induced to enter into this agreement by, among other things, the mutual waivers and certifications in this section.**

SECTION 9.11. Headings

Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality

Each of the Administrative Agent, the Arrangers, the Lenders and the Issuing Banks agrees to maintain the confidentiality of, and not disclose, the Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other agents and advisors, it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential, (b) to the extent requested by any governmental or regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section 9.12 and in accordance with the standard processes of the Administrative Agent, the Arrangers or any Lender, as applicable, or customary market standards for the dissemination of such type of information (which shall be deemed to include those required to be made in order to obtain access to information posted on IntraLinks, SyndTrak, DebtDomain or any similar website), in each case, that requires “click through” or other affirmative consent and acknowledgement to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement (in each case, that is an Eligible Assignee) or (ii) any actual or prospective counterparty (or its Related Parties) to any swap or derivative transaction relating to the Company or any Subsidiary and its obligations, (g) with the consent of the Company, (h) to



the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.12 or as a result of any improper disclosure by the Administrative Agent, any Arranger or any Lender or any of their respective Affiliates or their and their Affiliates' respective Related Parties or (ii) becomes available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis from a source other than the Company and that is not known by the Administrative Agent, any Arranger, any Lender or any Affiliate of any of the foregoing to have provided, and that none of the Administrative Agent, Arrangers, Lenders or any of the Affiliates of the foregoing has reasonable grounds to believe that such source has provided, such Information in a breach of any confidentiality obligation to the Borrower. For purposes of this Section 9.12, "Information" means all information received from the Company relating to the Company or any Subsidiary or their businesses, other than (A) any such information that is available to the Administrative Agent, any Arranger, any Lender, any Issuing Bank or any Affiliate of any of the foregoing on a non-confidential basis prior to disclosure by the Company and (B) information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Company after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

#### SECTION 9.13. Interest Rate Limitation

Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts that are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate, and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section 9.13 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

#### SECTION 9.14. Release of Liens and Guarantees

(a) A Subsidiary Loan Party shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by such Subsidiary Loan Party shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Loan Party ceases to be a Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided

otherwise. Upon any sale or other transfer by any Loan Party (other than to the Company or any Domestic Subsidiary that is not a CFC Holdco) of any Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any Collateral pursuant to Section 9.02, the security interests in such Collateral created by the Security Documents shall be automatically released.

(b) On the Release Date, the Liens on the Collateral under the Security Documents will automatically terminate and be deemed to have been released (it being understood that no such termination or release will modify or otherwise affect any Guarantee provided by any Loan Party under the Collateral Agreement).

(c) In connection with any termination or release pursuant to this Section, the Administrative Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(d) The Administrative Agent shall be deemed to have automatically released any Lien on any property granted to or held by it under the Collateral Agreement or any other Loan Document that is sold or distributed or to be sold or distributed as part of or in connection with any sale permitted hereunder and under each other Loan Document. The Administrative Agent shall, at the expense of the applicable Loan Party, execute and deliver to such Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of collateral from the assignment and security interest granted under the Collateral Agreement or other Loan Document.

(e) On the Effective Date, the Administrative Agent will release Radiant Payment Services, LLC from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by Radiant Payment Services, LLC shall be released. The Administrative Agent shall execute and deliver to Radiant Payment Services, LLC, at the Company's expense, all documents that the Company shall reasonably request to evidence the release of Radiant Payment Services, LLC.

#### SECTION 9.15. Satisfaction of Collateral and Guarantee Requirement

If the Company fails to maintain its Investment Grade Rating at any time following the Investment Grade Date, then the Company shall deliver written notice thereof to the Administrative Agent. As promptly as practicable following the Non-Investment Grade Date, and in any event no later than 30 days thereafter (such date, the "Delivery Date"), the Company shall cause the Collateral and Guarantee Requirement to be satisfied and shall deliver to the Administrative Agent a completed Perfection Certificate dated the Delivery Date and signed by a Financial Officer of the Company, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Company, the Foreign Borrowers and the Designated Subsidiaries in the jurisdictions contemplated by the Perfection Certificate, delivered at least five Business Days prior to the

Delivery Date, and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted by Section 6.02 or have been or will on the Delivery Date be released; provided that if, notwithstanding the use by the Company of commercially reasonable efforts without undue burden or expense to cause the Collateral and Guarantee Requirement to be satisfied on the Delivery Date, the requirements thereof are not fully satisfied as of the Delivery Date, the satisfaction of such requirements shall not be a condition to the availability of any Loans hereunder so long as the Company has agreed in a written instrument to satisfy any remaining requirements by a date agreed to by the Administrative Agent (it being understood that any failure to satisfy the Collateral and Guarantee Requirement by such later date will constitute, except to the extent additional time is agreed to by the Administrative Agent in accordance with the definition of “Collateral and Guarantee Requirement”, an Event of Default under paragraph (d) of Article VII).

#### SECTION 9.16. Certain Notices

Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act and the Beneficial Ownership Regulation it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA PATRIOT Act and the Beneficial Ownership Regulation.

#### SECTION 9.17. No Fiduciary Relationship

The Company, on behalf of itself and its subsidiaries, agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Company, the Subsidiaries and their Affiliates, on the one hand, and the Administrative Agent, the Lenders, the Issuing Banks and their Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Lenders, the Issuing Banks or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, the Arrangers, the Lenders, the Issuing Banks and their Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Company and its Affiliates, and none of the Administrative Agent, the Arrangers, the Lenders, the Issuing Banks or their Affiliates has any obligation to disclose any of such interests to the Company or any of its Affiliates.

#### SECTION 9.18. Non-Public Information

(a) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by the Company or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain MNPI. Each Lender represents to the Company and the Administrative Agent that (i) it has developed compliance procedures regarding the use of MNPI

and that it will handle MNPI in accordance with such procedures and applicable law, including Federal, state and foreign securities laws, and (ii) it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain MNPI in accordance with its compliance procedures and applicable law, including Federal, state and foreign securities laws.

(b)The Company, and each Lender acknowledge that, if information furnished by the Company pursuant to or in connection with this Agreement is being distributed by the Administrative Agent through the Platform, (i) the Administrative Agent may post any information that the Company has indicated as containing MNPI solely on that portion of the Platform as is designated for Private Side Lender Representatives and (ii) if the Company has not indicated whether any information furnished by it pursuant to or in connection with this Agreement contains MNPI, the Administrative Agent reserves the right to post such information solely on that portion of the Platform as is designated for Private Side Lender Representatives. The Company agrees to clearly designate all information provided to the Administrative Agent by or on behalf of the Company that is suitable to be made available to Public Side Lender Representatives, and the Administrative Agent shall be entitled to rely on any such designation by the Company without liability or responsibility for the independent verification thereof.

#### SECTION 9.19. Conditional Non-Petition Covenant

. Each of the Administrative Agent and the Lenders agrees that in the event it or any other Secured Party acquires any Interests in any Receivables Subsidiary (as creditor or otherwise) in connection with the exercise of remedies against the Collateral or otherwise in connection with the enforcement, collection or payment of the Obligations hereunder or under any Security Document, it shall not (including by acting on behalf of any such Secured Party or the Secured Parties generally), until one year and one day after the Third Party Interests of such Receivables Subsidiary have been satisfied in full, institute against such Receivables Subsidiary, or join in any institution against such Receivables Subsidiary of, any bankruptcy, reorganization, arrangement, insolvency, receivership, winding-up or liquidation proceedings or any similar proceedings under any bankruptcy or insolvency laws of any jurisdiction; provided that the foregoing shall not limit the rights of the Administrative Agent or any Lender to file any claim in or otherwise take any action with respect to any such proceeding that was instituted by another Person that is not one of its Affiliates against a Receivables Subsidiary. The foregoing agreement shall survive any termination of this Agreement.

#### SECTION 9.20. Acknowledgement and Consent to Bail-In

. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties hereto, each party hereto acknowledges and accepts that any liability of any party hereto to another party hereto under or in connection with the Loan Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a)any Bail-In Action in relation to any such liability, including (without limitation):

(i) a reduction in full or in part, in the principal amount or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;

(ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and

(iii) a cancellation of any such liability; and

(b) a variation of any term of any Loan Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

#### SECTION 9.21. Judgment Currency

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in dollars into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction dollars could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of each party hereto in respect of any sum due to any other party hereto or any holder of the obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than the currency in which such sum is stated to be due hereunder (the "Agreement Currency"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The obligations of the parties contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

#### SECTION 9.22. Amendment and Restatement of Existing Credit Agreement

(a) This Agreement shall amend and restate the Existing Credit Agreement in its entirety, and all of the terms and provisions hereof shall supersede the terms and conditions thereof.

(b) It is understood and agreed that any notice of termination of commitments under the Existing Credit Agreement is given only with respect to the commitments under the Existing Credit Agreement, and not with respect to the Commitments hereunder, and as of the Effective Date, each Lender identified on Schedule 2.01 has in effect a Commitment in the amount set forth opposite the name of such Lender on such Schedule. Each Lender that is also a lender under the Existing Credit Agreement hereby consents and agrees that no prior notice shall

be required under the Existing Credit Agreement with respect to (i) termination of commitments under the Existing Credit Agreement or (ii) prepayment of loans under the Existing Credit Agreement; provided that notice thereof is given on or prior to the Effective Date. The parties hereto hereby agree that no amount shall be payable under Section 2.16 of the Existing Credit Agreement solely as a result of the repayment of any outstanding loan under the Existing Credit Agreement on the Effective Date.

SECTION 9.23. Acknowledgment Regarding Any Supported QFCs

. (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Agreements or any other agreement or instrument that is a QFC (such support, “QFC Credit Support” and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States).

(b) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

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<b>Summary report:</b>	
<b>Litera® Change-Pro for Word 10.11.1.0 Document comparison done on 2/8/2021 10:42:27 AM</b>	
<b>Style name:</b> no footer	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> dm://NYCSR01A/1287995/1	
<b>Description:</b> 1	
<b>Modified filename:</b> NCR_Fourth Amendment to Credit Agreement (Exhibit A)_2021 [Execution Version].DOCX	
<b>Changes:</b>	
Add	41
Delete	19
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	6
<b>Total Changes:</b>	<b>66</b>

WAIVER dated as of January 14, 2021 (this "Waiver") to the CREDIT Agreement dated as of August 22, 2011, as amended and restated as of July 25, 2013, as further amended and restated as of March 31, 2016 and as further amended and restated as of August 28, 2019, among NCR CORPORATION (the "Borrower"), the LENDERS party thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent (the "Administrative Agent") (as amended and in effect prior to the effectiveness of this Waiver, the "Credit Agreement").

WHEREAS, the Applicable Rate under the Credit Agreement with respect to each Revolving Loan and the commitment fees payable in respect of the Revolving Commitments is determined based upon the Leverage Ratio as of the end of each fiscal quarter of the Borrower.

WHEREAS, the Borrower has determined that (a) as a result of an administrative error, the Existing Preferred was not listed on Schedule 6.01 to the Credit Agreement (the "Scheduling Error"), and a corrected version of such Schedule 6.01 is attached hereto as Schedule A, and (b) certain administrative errors occurred in connection with calculating the Leverage Ratio in Compliance Certificates that were delivered by the Borrower for the fiscal quarters of the Borrower ended during the period from September 30, 2019 through and including September 30, 2020 (the "Specified Quarters"), which such errors are specified on Schedule B hereto (collectively, the "Calculation Errors").

WHEREAS, as a result of the Calculation Errors, the amount of interest, participation fees and commitment fees in respect of Revolving Loans, Letters of Credit and Revolving Commitments, in each case paid by the Borrower to the Revolving Lenders based on the Leverage Ratio calculated for the Specified Quarters, was less than the interest, participation fees and commitment fees in respect of Revolving Loans, Letters of Credit and Revolving Commitments that would have been required to be paid absent the occurrence of the Calculation Errors (such difference, which is detailed on Schedule C hereto, the "Interest and Fee Shortfall Amount").

WHEREAS, the Borrower has requested that the Revolving Lenders consent to a waiver of all Defaults and Events of Default that have arisen solely as a result of (i) the Scheduling Error and the Calculation Errors, (ii) the failure to pay the Interest and Fee Shortfall Amount when due, (iii) any incorrect determinations of the Applicable Rate based on calculations of the Leverage Ratio for the Specified Quarters and (iv) any failure by the Borrower to furnish prompt written notice of any of the foregoing (collectively, the "Specified Defaults"). For the avoidance of doubt, the Specified Defaults shall not include any Defaults or Events of Default that may arise in the event of any calculation errors other than the Calculation Errors or the failure to pay any interest or fees other than the Interest and Fee Shortfall Amount.

WHEREAS, the Lenders whose signatures appear below, constituting all the Revolving Lenders, are willing to consent to a waiver of the Specified Defaults on the terms and subject to the conditions set forth herein.



NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used but not defined herein (including in the recitals hereto) shall have the meanings assigned to such terms in the Credit Agreement.

SECTION 2. Waiver. Effective as of the Waiver Effective Date (as defined below), each Revolving Lender party hereto hereby (a) waives all Defaults and Events of Default that have arisen solely as a result of the Specified Defaults and (b) agrees that the version of Schedule 6.01 that is attached hereto as Schedule A shall be deemed to replace Schedule 6.01 attached to the Credit Agreement immediately prior to the effectiveness hereof.

SECTION 3. Representations and Warranties. To induce the other parties hereto to enter into this Waiver, the Borrower hereby represents and warrants to the Administrative Agent and the Lenders that:

(a) This Waiver has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally, and to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) On the Waiver Effective Date, and after giving effect to this Waiver, the representations and warranties of each Loan Party set forth in the Credit Agreement and in each other Loan Document are true and correct (i) in the case of the representations and warranties qualified as to materiality, in all respects and (ii) otherwise, in all material respects, in each case as though made on and as of the Waiver Effective Date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty is so true and correct on and as of such prior date.

(c) On and as of the Waiver Effective Date, and after giving effect to this Waiver, no Default or Event of Default has occurred and is continuing.

SECTION 4. Effectiveness. This Waiver shall become effective on the date (the "Waiver Effective Date") on which:

(a) The Administrative Agent (or its counsel) shall have received duly executed counterparts (which may include telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page of a signed counterpart of this Amendment) hereof that, when taken together, bear the authorized signatures of the Administrative Agent, the Borrower and each of the Revolving Lenders.

(b) The Borrower shall have delivered to the Administrative Agent a certificate signed by a Financial Officer of the Borrower certifying as to the accuracy of Schedules A, B

and C hereto (which, in the case of Schedules B and C, respectively, include (i) the recalculated Leverage Ratio as of the last day of each Specified Quarter and detail the Calculation Errors and (ii) detailed calculations of the Interest and Fee Shortfall Amount).

(c) The Borrower shall have paid to the Administrative Agent, for the accounts of the applicable Lenders and the Issuing Banks, an aggregate amount equal to the Interest and Fee Shortfall Amount, plus all additional amounts owed to the Lenders and the Issuing Banks pursuant to Section 2.12 of the Credit Agreement.

The Administrative Agent shall notify the Borrower and the Revolving Lenders of the Waiver Effective Date, and such notice shall be conclusive and binding.

SECTION 5. Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Waiver and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of counsel to the Administrative Agent.

SECTION 6. Effect of Waiver. (a) Except as expressly set forth herein, this Waiver shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Administrative Agent, the Issuing Banks or the Lenders under the Credit Agreement or any of the other Loan Documents, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle the Borrower to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any of the other Loan Documents in similar or different circumstances.

(b) This Waiver shall constitute a Loan Document for all purposes of the Credit Agreement and each other Loan Document.

**SECTION 7. Applicable Law. THIS WAIVER SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.**

SECTION 8. Counterparts. This Waiver may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Waiver by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Waiver. The words “execution”, “signed”, “signature”, “delivery” and words of like import in or relating to this Waiver shall be deemed to include Electronic Signatures (as defined below), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be. “Electronic Signatures” means any electronic symbol or process

attached to, or associated with, any contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record.

SECTION 9. Headings. The Section headings used herein are for convenience of reference only, are not part of this Waiver and are not to affect the construction of, or to be taken into consideration in interpreting, this Waiver.

SECTION 10. Incorporation by Reference. The submission to jurisdiction, service of process, venue, judgment currency, waiver of immunity, waiver of jury trial and electronic signature provisions set forth in the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, the parties hereto have duly executed this Waiver as of the day and year first above written.

NCR CORPORATION,

by

/s/ Michael Nelson

---

Name: Michael Nelson

Title: Treasurer

JPMORGAN CHASE BANK, N.A.,

as Lender and as Administrative Agent,

by

/s/ Matthew Cheung

Name: Matthew Cheung

Title: Vice President

[Signature Page to Waiver]  
[[5560654]]



For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: Royal Bank of Canada

by

\_\_\_\_\_  
/s/ Kamran Khan

Name: Kamran Khan

Title: Authorized Signatory

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: TRUIST BANK, as successor by merger to SUNTRUST BANK

by

\_\_\_\_\_  
/s/ David Bennett

Name: David Bennett

Title: Director

Name of Lender: Wells Fargo Bank, N.A.

by

\_\_\_\_\_  
/s/ Harjot K. Sandhu

Name: Harjot K. Sandhu

Title: Senior Vice President

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: Capitol One, National Association

by

/s/ Timothy A. Ramijanc

Name: Timothy A. Ramijanc

Title: Duly Authorized Signatory

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: Fifth Third Bank, National Association

by

/s/ Dan Komitor

Name: Dan Komitor

Title: Managing Director



Name of Lender: CITIBANK, N.A.

by

/s/ James M. Walsh

Name: James M. Walsh

Title: Managing Director

Name of Lender: Santander Bank, N.A.

by

/s/ Donna Cleary

Name: Donna Cleary

Title: Senior Director

[Signature Page to Waiver]  
[[5560654]]





Name of Lender: THE NORTHERN TRUST COMPANY

by

/s/ Kimberly A. Crotty

Name: Kimberly A. Crotty

Title: Vice President

Name of Lender: STANDARD CHARTERED BANK

by

/s/ James Beck

Name: James Beck

Title: Associate Director

Name of Lender: People's United Bank, N.A.

by

/s/ Darci Buchanan

Name: Darci Buchanan

Title: Senior Vice President

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: SYNOVUS BANK

by

/s/ Chandra Cockrell

Name: Chandra Cockrell

Title: Corporate Banker

Name of Lender: First Horizon Bank (successor in interest to Capital Bank, a division of First Tennessee Bank,  
N.A.)

by

/s/ Terence J Dolch

Name: Terence J Dolch

Title: Senior Vice President

For any Lender requiring a second signature block:

by

\_\_\_\_\_  
Name:

Title:

Name of Lender: First National Bank of Omaha

by

/s/ Dale Ervin

Name: Dale Ervin

Title: Director

For any Lender requiring a second signature block:

by

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Name:

Title:

[Signature Page to Waiver]  
[[5560654]]

**Senior Executive Team  
Performance Share Restricted Stock Unit Award Agreement  
NCR Corporation 2017 Stock Incentive Plan**

Congratulations on your award of performance share restricted stock units of NCR Common Stock as part of NCR's 2020 executive compensation program. The Compensation and Human Resources Committee of our Board of Directors approved your award in anticipation of your future contributions to the success of NCR. The award also recognizes your past performance and upholds our commitment to rewarding our higher performers. This award is an opportunity to celebrate your achievements and to continue to expand your ownership stake in NCR.

Your performance share restricted stock units ("Stock Units") are awarded (the "Award") by NCR Corporation ("NCR" or the "Company") under the NCR 2020 Long-Term Incentive (LTI) Program and the NCR Corporation 2017 Stock Incentive Plan as amended from time to time ("Plan"). See the performance share restricted stock units page at [www.netbenefits.fidelity.com](http://www.netbenefits.fidelity.com) for the number of Stock Units granted to you, your date of grant ("Grant Date") and other Award details. Your Award is subject to the terms of this 2020 Senior Executive Team Performance Share Restricted Stock Unit Award Agreement and the Plan. Capitalized terms not defined in this Agreement have the meanings provided under the Plan.

1. **Grant of Stock Units.** Subject to potential adjustment as set forth in Section 2 and further subject to the other terms and conditions of this Agreement, the number of Stock Units determined under Section 2 (the "Earned Units") will become vested and non-forfeitable as follows: 50% on December 31, 2021 and the remaining 50% on December 31, 2022 (each a "Vesting Date"), provided that (i) the Compensation and Human Resource Committee of the NCR Board of Directors (the "Committee") has certified the applicable Common Stock price performance of NCR Corporation ("NCR" or "Company") for the period from July 1, 2020 through December 31, 2021 (the "Performance Period") and the percentage of Stock Units, if any, deemed earned and eligible for vesting hereunder, and (ii) you are continuously employed by an Employer through and until the applicable Vesting Date. The Stock Units are referred to in this Agreement as "Vested" at the time they become vested and non-forfeitable pursuant to this Section or Section 2 or Section 4 below.

2. **Performance Vesting.** The number of Earned Units shall be equal to the product of the number of Stock Units awarded to you (the "Target Award Number") multiplied by the Stock Performance Modifier. You may receive from 0% up to 200% of the Target Award Number based on this calculation.

The Earned Units represent the right to receive a number of Stock Units equal to the number of Earned Units, subject to the vesting requirements and distribution provisions of this Agreement and the terms of the Plan and the discretion of the Committee. All information summarized or otherwise shown on the website of the TPA shall be subject to the determinations of the Committee, the Plan and this Agreement.

3. **Settlement of Stock Units.** Except as may be otherwise provided in Section 4 or 20, or Section 14.12 of the Plan or pursuant to an election under Section 14.11 of the Plan, Vested Stock Units will be paid to you as soon as reasonably practicable after the earliest of: (a) the applicable Vesting Date, (b) your Termination of Employment if such Termination of Employment results in vesting pursuant to Section 4 below, including but not limited to a Termination of Employment in connection with a Change in Control, or (c) the Change in Control date if vesting occurs in connection with a Change in Control without a Termination of Employment as determined under Section 4 below. In all events, the settlement date shall be no later than March 15 of the year following the year in which the earliest of such events occurs; except that, notwithstanding any other provision hereof, the settlement date in the event of vesting in connection with a Change in Control as described in Section 4(i) or 4(ii) shall be no later than 30 days after the Termination of Employment date, or the Change in Control date, as applicable. Such Vested Stock Units will be paid to you in shares of Common Stock (such that one Stock Unit equals one share of Common Stock) or, in NCR's sole discretion in an amount of cash equal to the Fair Market Value of such number of shares of Common Stock on date that immediately precedes the applicable Vesting Date (or such earlier date upon which the Stock Units have become Vested pursuant to Section 4 of this Agreement), or a combination thereof (the date of such payment shall be referred to herein as the "Settlement Date"). For the avoidance of doubt, as provided in Section 14.12 of the Plan, if (i) your Stock Units or any amount payable with respect thereto constitutes "deferred compensation" within the meaning of Code Section 409A, (ii) you are a "specified employee" (as defined by Code Section 409A), and (iii) payment with respect to your Stock Units is made in connection with your "separation from service" (as defined by Section Code 409A), then no such payment shall be made before the date that is six months following the date of such separation from service or, if earlier, your death.

4. **Accelerated Vesting and Forfeiture Events.** Your Stock Units will vest earlier than the applicable Vesting Date, or be forfeited and cancelled before vesting, to the extent provided below. Except as otherwise provided in this Agreement, in the event of your Termination of Employment before a Vesting Date for any reason, all unvested Stock Units will automatically be forfeited and cancelled, and no Shares or cash will be issued or paid.

Event	Treatment of Stock Units
Death or Disability	<u>Vesting:</u> Your unvested Stock Units will become fully Vested on the later of January 1, 2022 or your Termination Date in an amount equal to (a) the Earned Units (as determined under Section 2), minus (b) the number of Stock Units that previously vested under this Agreement (if any).
Retirement or Involuntary Termination (other than for Cause)	<u>Vesting:</u> Your unvested Stock Units will vest pro rata effective on the first Vesting Date for your Award determined under Section 1 that follows your Termination Date in an amount equal to (i) the Earned Units (as determined under Section 2) multiplied by a fraction, the numerator of which is your Work Period and the denominator of which is your Vesting Period, minus (ii) the number of Stock Units that previously vested under this Agreement (if any).
Voluntary Resignation or Termination for Cause	Unvested Stock Units will be forfeited and cancelled, except in the case of a Voluntary Resignation satisfying the Mutually Agreed Retirement requirements.
Mutually Agreed Retirement	<u>Vesting:</u> Subject to the approval of the Committee or the Company's Chief Executive Officer in their respective sole discretion, if: (a) you retire from employment at age 62 or older with at least 2 years of continuous service with an Employer (excluding service with acquired entities before the acquisition), and (b) you continue to comply with this Agreement (including, without limitation, Section 9 hereof), then your Stock Units will continue to vest pursuant to the terms of this Agreement as if you had remained actively employed. This treatment will apply instead of any Retirement treatment that may also apply to you under this Agreement.

**Definitions:** For purposes of this Agreement, the following definitions apply:

“**Change in Control Multiplier**” means a fraction (a) the numerator of which is the Common Stock price that applies in the applicable Change in Control transaction and (b) the denominator of which is the Starting Closing Price.

“**Change in Control Termination**” means Termination of Employment by the Employer or the continuing entity or successor other than for Cause (as defined in the NCR Change in Control Severance Plan if you participate in that plan on your Termination Date; otherwise as defined in the Plan, and excluding termination due to Disability) occurring during the twenty-four months following a Change in Control wherein this Award is assumed, converted or replaced by the continuing entity or successor.

“**Disability**” means your qualifying for benefits under your Employer’s long-term disability plan.

“**Employer**” means NCR Corporation (the Company) or any Subsidiary or Affiliate.

“**Ending Closing Price**” means the closing market price of one share of Common Stock reported on the New York Stock Exchange on December 31, 2021.

“**Good Reason Termination**” means, if you are a participant in the NCR Change in Control Severance Plan, or an NCR policy or similar arrangement or individual agreement that defines “Good Reason” in the context of a resignation following a Change in Control, your Termination of Employment for Good Reason as so defined within twenty-four (24) months following a Change in Control.

“**Involuntary Termination (other than for Cause)**” means Termination of Employment by the Employer for any reason other than for Cause (as defined in the Plan and, for the avoidance of doubt not including any termination due to your Disability), excluding termination by the Employer or the continuing entity or successor during the twenty-four (24) months following a Change in Control.



“**Retirement**” means Termination of Employment at age 62 or older with at least 10 years of continuous service with an Employer through your Termination Date (excluding service with acquired entities before the acquisition).

“**Starting Closing Price**” means \$16.97, which was the closing market price of one share of Common Stock reported on the New York Stock Exchange on July 1, 2020.

“**Stock Performance Multiplier**” means a fraction (a) the numerator of which is the Ending Closing Price and (b) the denominator of which is the Starting Closing Price.

“**Termination Date**” means the date of your Termination of Employment for any reason.

“**TPA**” means the third party administrator for the Plan

“**Vesting Period**” means the number of days in the period starting on the Grant Date and ending on January 1, 2023.

“**Work Period**” means the number of days in the period starting on the Grant Date and ending on your Termination Date.

**Change in Control Provisions:**

<b>Change in Control Event</b>	<b>Treatment of Stock Units</b>
Change in Control occurring during the Performance Period	Unless an earlier vesting date applies under this Agreement, and subject to your continued employment through the Vesting Date, and subject to the special vesting rules immediately below, the Target Award Number of Stock Units multiplied by the Change in Control Multiplier shall Vest in accordance with the vesting schedule set forth in Section 1 (with no proration).
Change in Control occurring after the end of the Performance Period	Unless an earlier vesting date applies under this Agreement, the unvested Earned Units shall Vest in accordance with the vesting schedule set forth in Section 1 (with no proration), subject to your continued employment through the applicable Vesting Dates (and subject to the special vesting rules immediately below).

Notwithstanding any other provision of this Agreement to the contrary:

(i) where the Stock Units are assumed, converted or replaced by the continuing entity or successor, if, during the twenty four (24) months following the Change in Control, you incur a Termination of Employment by NCR, the Employer or the continuing entity or successor other than for Cause (as defined in the NCR Change in Control Severance Plan, to the extent you are a Participant in the NCR Change in Control Severance Plan at the time of such Termination of Employment; otherwise, as defined in the Plan and, for the avoidance of doubt, not including any termination due to your Disability) or, if you are a Participant in the NCR Change in Control Severance Plan, an NCR policy or a similar arrangement or individual agreement that defines “Good Reason” in the context of a resignation following a Change in Control and you terminate your employment for Good Reason as so defined, to the extent not then Vested, the Stock Units shall become Vested immediately upon your Termination of Employment in the amounts determined as set forth in the chart above with respect to performance; and

(ii) in the event a Change in Control occurs prior to the applicable Vesting Date and the Stock Units are not assumed, converted or replaced by the continuing entity or successor, the Stock Units shall become Vested immediately prior to the Change in Control in the amounts determined as set forth in the chart above with respect to performance.

5. **Confidentiality.** You agree that this Agreement’s terms are to remain confidential and you won’t disclose such terms to anyone except: (a) your spouse, domestic partner, tax advisor, or attorney, or as required by law; (b) you may disclose the non-disclosure, non-competition, non-solicitation, and non-recruit/hire covenants herein to a prospective employer; (c) a disclosure by you of this Agreement required pursuant to a legal request (e.g., subpoena or court order) will not constitute a breach of this Agreement if, to the extent permitted under the circumstances, you: (i) have first provided notice to NCR, and its

General Counsel at law.notices@ncr.com, and provided an opportunity to NCR to protect such information by protective order or other means, and (ii) you disclose only that portion of this Agreement that you are legally required to disclose; and (d) [FOR US EMPLOYEES ONLY:] nothing contained in this Agreement limits your ability to file a charge or complaint with the Equal Employment Opportunity Commission, the Securities and Exchange Commission, the Department of Justice, or any other federal, state or local governmental agency or commission (“Government Agencies”), or to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by Government Agencies, including providing documents or other information, without notice to the Company. You agree that you will require any persons to whom disclosure is made as permitted by this Section to keep such information confidential and not disclose it to others.

6. **Nontransferability.** At all times before a Vesting Date, unvested Stock Units may not be sold, transferred, pledged, assigned or otherwise alienated, except by beneficiary designation, by will or by the laws of descent and distribution upon your death. As soon as practicable after the applicable Vesting Date (or such other date as Stock Units become payable in accordance with Section 4), if Stock Units that Vested on such Vesting Date are to be paid in the form of Shares, NCR will instruct its transfer agent and/or its TPA to record on your account the number of such Shares underlying the number of such Stock Units, and such Shares will be freely transferable.

7. **Dividends.** Any cash dividends declared before the applicable Vesting Date on the Shares underlying unvested Stock Units shall not be paid currently, but shall be converted into additional unvested Stock Units, and any cash dividends declared after a Vesting Date but before the applicable Settlement Date on the Shares underlying Vested Stock Units shall not be paid currently, but shall be converted into additional Vested Stock Units and settled pursuant to Section 3 at the same time as the underlying Vested Stock Units. Any Stock Units resulting from such conversion (the “Dividend Units”) will be considered Stock Units for purposes of this Agreement and will be subject to all of the terms, conditions and restrictions set forth herein that apply to the underlying Stock Units that generated the Dividend Units. As of each date that NCR would otherwise pay the declared dividend on the Shares underlying the Stock Units (the “Dividend Payment Date”) in the absence of the reinvestment requirements of this Section, the number of Dividend Units will be determined by dividing the amount of dividends otherwise attributable to the Stock Units but not paid on the Dividend Payment Date by the Fair Market Value of NCR’s Common Stock on the Dividend Payment Date.

8. **Withholding.** Before tax and withholding events, as a condition of your receiving Shares in respect of the Stock Units, you agree to make arrangements satisfactory to the Employer and Plan Administrator to satisfy all income tax, social insurance tax, payroll tax, fringe benefits tax and other Federal, state or local and non-U.S. tax payment or withholding requirements or other tax related items (collectively, “Tax-Related Items”) determined by the Plan Administrator in its sole discretion in connection with the Award or your participation in the Plan, including: (i) paying NCR, in its sole discretion, through payroll withholding or other Plan Administrator-required method, the amount of Tax-Related Items required to be paid or withheld with respect to the Stock Units. Such payment of Tax-Related Items will be made by NCR withholding Shares issuable upon settlement of the Stock Units equal to the amount required to be withheld or paid as determined by NCR, except to the extent that: (i) the Chief Human Resources Officer permits payment for such Tax-Related Items in cash by an employee other than an executive officer of NCR (“Executive Officer”) subject to Section 16 of the Securities Exchange Act of 1934, as amended (the “Act”), or (ii) you are an Executive Officer and you elect to make payment for such Tax-Related Items in cash or by instructing NCR and any brokerage firm approved by NCR to sell on your behalf the Shares underlying the Stock Units that NCR determines will satisfy such Tax-Related Items. Any withholding of Shares or sale or cash payment pursuant to this Section will occur when the requirement to withhold or pay taxes arises, or as soon as practicable afterwards if permitted by NCR. If you are an Executive Officer who instructs a brokerage firm sale permitted by this Section, you will be responsible for, and will indemnify and hold NCR and the Employer harmless with respect to, any and all losses, costs, damages or other expenses (including brokerage fees and other similar costs related directly to any such sale of Common Stock) arising in connection with, or related to, any such sale. You acknowledge that if, at the time any Shares of Common Stock are sold to satisfy requirements relating to Tax-Related Items pursuant to this Section, you are an Executive Officer as defined above, any such sale of Common Stock must be made pursuant to an exemption from the requirements under Section 16(b) of the Act.

You agree that the ultimate liability for all Tax-Related Items remains your responsibility and may exceed the amount withheld. Depending on the withholding method, NCR may withhold or account for Tax-Related Items by considering such statutory withholding rates as may be determined applicable in the discretion of the Plan Administrator that will not result in an adverse accounting consequence or cost.

## **9. Non-Competition, Non-Solicitation and Non-Recruit/Hire.**

(a) Pursuant to your employment with NCR (“**the Company**”), you have or will have access to, and knowledge of, certain confidential information (including, without limitation, trade secrets and information about the Company’s business, operations, customers, employees, and industry relationships) not known to, or readily ascertainable by, the public or NCR’s competitors and that gives the Company a competitive advantage (“**Confidential Information**”). You acknowledge that any unauthorized use (including use for your own benefit or to the benefit of others), transfer, or disclosure by you of NCR’s Confidential Information can place NCR at a competitive disadvantage and cause damage, financial and otherwise, to its business. You further acknowledge that, because of the knowledge of and access to the Confidential Information of the Company that you have acquired or will have acquired during your employment, you will be in a position to compete unfairly with the Company following the termination of your employment.

(b) **Post-Employment Restrictive Covenants.** Therefore, for the purpose of protecting NCR’s business interests, including the Confidential Information, goodwill and stable trained workforce of the Company, and in exchange for the benefits and consideration provided to you under this Agreement (including, without limitation, the potential future vesting of Stock Units), you agree that, for a 12-month period after the termination of your NCR employment (or the maximum period allowed by applicable law if less than 12 months) (the “**Restricted Period**”), regardless of the reason for termination, you will not, without the prior written consent of the Chief Executive Officer of NCR:

- (1) **Non-Recruit/Hire** - Directly or indirectly (including without limitation assisting third parties) recruit, hire or solicit, or attempt to recruit, hire or solicit any employee of NCR, induce or attempt to induce any employee of NCR to terminate his or her employment with NCR, or refer any such employee to anyone outside of the Company for the purpose of that NCR’s employee’s seeking, obtaining, or entering into an employment relationship or agreement to provide services;
- (2) **Non-Solicitation** - Directly or indirectly (including without limitation assisting others), solicit or attempt to solicit the business of any NCR customers or prospective customers with which you had Material Contact (as defined in Section 9(c)(i) below) during the last 2 years of your NCR employment for purposes of providing products or services that are competitive with those provided by NCR;
- (3) **Non-Competition** - Perform services, directly or indirectly, in any capacity (including, without limitation, as an employee, consultant, contractor, owner or member of a board of directors): (i) of the type conducted, authorized, offered, or provided by you on behalf of NCR during the 2 years prior to termination of your NCR employment; (ii) in connection with NCR Competing Products/Services (as defined in Section 9(c)(ii)) that are similar to or serve substantially the same functions as those with respect to which you worked during the 2 years prior to termination of your NCR employment or about which you obtained trade secret or other Confidential Information; (iii) within the geographic territories (including countries and regions, if applicable, or types, classes or tiers of customers if no geographic territory was assigned to you) where or for which you performed, were assigned, or had responsibilities for such services during the 2 years preceding your termination; and (iv) on behalf of a Competing Organization (as defined in Section 9(c)(iii)).

(c) For purposes of Section 9 of this Agreement, the following definitions shall apply:

(i) “**Material Contact**” means the contact between you and each customer or prospective customer (a) with which you dealt on behalf of NCR, (b) whose dealings with NCR were coordinated or supervised by you, (c) about whom you obtained confidential information in the ordinary course of business as a result of your association with NCR, or (d) who receives products or services authorized by NCR, the sale or provision of which results, resulted or, with regard to prospective customers, would have resulted in compensation, commissions, or earnings for you within the 2 years prior to the date of your termination;

(ii) “**Competing Products/Services**” are any products, services, solutions, platforms, or activities that compete, directly or indirectly, in whole or in part, with one or more of the products, services or activities produced, provided or engaged in by NCR (including, without limitation, products, services or activities in the planning or development stage during your NCR employment) at the time of your separation from NCR and during the 2 years prior to termination of your NCR employment;

(iii) A “**Competing Organization**” is any person, business or organization that sells, researches, develops, manufactures, markets, consults with respect to, distributes and/or provides referrals with regard to one or more Competing Products/Services and includes, without limitation, all entities on the Competing Organization List;

(iv) The “**Competing Organization List**,” which the Company updates from time to time, provides examples of companies that, as of the date of the List’s publication, meet the definition of Competing Organization under Section 9(c)(iii) above. However, the Competing Organization List is not comprehensive and, in the event of a conflict between Section 9(c)(iii) and the Competing Organization List, Section 9(c)(iii) controls. The most recent version of the Competing Organization List in effect at the time of the termination of your NCR employment, which is available on the NCR HR intranet, or from the NCR Law Department or HR upon request, is the version to consult for relevant examples of Competing Organizations for purposes of this Agreement. As of the Grant Date, the companies listed in this Section (and the subsidiaries and affiliates of each) constitute the Company’s Competing Organization List for 2020. This list will remain in effect until an updated list is approved/posted. You understand that the non-competition provisions in this Agreement are not limited to those included on the list below, that other companies may qualify as competitors under this Agreement, and that you may be restricted from accepting employment or other work from such other companies, subject to the terms of this Agreement.

ACI Worldwide	Global Payments	PAR Technology
Acuative	HP Inc.	Flooid
Agilysys	Infor	Q2
Altametrics	Jack Henry & Assoc.	Qu
Appetize	Temenos AG	Revel Systems
Aptos	Korala Associates Ltd.	Square
Diebold Nixdorf	Lavu Inc.	Tillster
Dimension Data/NTT	LOC Software	Toast, Inc.
FIS	Manhattan Associates	Toshiba TEC
Fiserv (Includes First Data and Clover)	Hyosung TNS	Toshiba Global Commerce Solutions
Fujitsu	NSC Global	Unisys
Getronics	Office Depot (Compucom)	Upserve (Breadcrumb)
Gilbarco Veeder-Root	Open Table	Zebra Technologies Corp
GK Software	Oracle	

(v) All references to “**NCR employment**” in this Section 9 refer to your employment by NCR (including any Employer) and shall also be deemed to include your employment by any company the stock or substantially all the assets of which NCR has acquired during the period applicable to the 2-year look back for the restrictive covenants referred to herein.

(d) **Consideration.** You acknowledge that (i) you would not have received the benefits and consideration provided under this Agreement, including the potential future vesting of equity awards, but for your consent to abide by the Post-Employment Restricted Covenants contained in Section 9(b); (ii) you must abide Section 9(b) regardless of whether any stock units or other equity has vested or been distributed as of the time of any violation of its terms; and (iii) your agreement to Section 9(b) is a material component of the consideration for this Agreement.

(e) **Remedies.** You agree that, if you breach any of the provisions of this Agreement: (i) NCR shall be entitled to all of its remedies at law or in equity, including but not limited to money damages and injunctive relief; (ii) in the event of such breach, in addition to NCR’s other remedies, any unvested Stock Units will be immediately forfeited and deemed canceled, and you agree to pay immediately to NCR the Fair Market Value of any Stock Units that vested during the 18 months prior to the date of your termination of employment (or if applicable law mandates a maximum time that is shorter than 18 months, then for a period of time equal to the shorter maximum period), without regard to whether you continue to own the Shares associated with such Stock Units; and (iii) NCR shall also be entitled to an accounting and repayment from you of all profits, compensation, commissions, remuneration or benefits that you (and/or the applicable Competing Organization) directly or indirectly have realized or may realize as a result of or in connection with any breach of these covenants, and such remedy shall be in addition to and not in limitation of any injunctive relief or other rights or remedies to which NCR may be entitled at law or in equity. For U.S. employees, pursuant to the Defense of Trade Secrets Act, NCR may also recover punitive damages and attorneys’ fees, and may also seek and be awarded ex parte seizure of property necessary to prevent the unauthorized use, transfer and disclosure of trade secrets.

(f) **Subsequent Employment.** You agree that, while employed by NCR and for 1 year thereafter, you will communicate the contents of this Agreement to any person, firm, association, partnership, corporation or other entity which you intend to become employed by, contract for, associated with or represent, prior to accepting and engaging in such employment, contract, association and/or representation.

(g) **Tolling.** [FOR US EMPLOYEES ONLY:] You agree that the Restricted Period will be tolled and suspended during the period of any violation of its terms and for the pendency of any legal proceedings to enforce any of the covenants set forth in this Section 9 and that no time that is part of or subject to such tolling and suspension will be counted toward the 12-month duration of the Restricted Period.

(h) **Reasonable and Necessary.** You agree that the Post-Employment Restrictive Covenants set forth in Section 9(b) are reasonable and necessary for the protection of NCR's legitimate business interests, that they do not impose a greater restraint than is necessary to protect the goodwill or other business interests of NCR, that they contain reasonable limitations as to time and scope of activity to be restrained, that they do not unduly restrict your ability to earn a living, and that they are not unduly burdensome to you.

(i) **Severability.** Each clause of this Agreement and Section constitutes an entirely separate and independent restriction and the duration, extent and application of each of the restrictions are no greater than is necessary for the protection of NCR's interests. If any part or clause of this Section 9 is held unenforceable, it shall be severed and shall not affect any other part of Section 9 and this Agreement.

(j) **Amendment for California Employees Only.** Section 9(b)'s Non-Competition, Non-Solicitation, and Non-Recruit/Hire restrictions do not apply to you if, following the termination of your NCR employment, you continue to reside or work in California or any other jurisdiction that prohibits the application thereof. Notwithstanding the foregoing, you are and shall continue to be prohibited from any unauthorized use, transfer, or disclosure of the Company's Confidential Information, including trade secrets, pursuant to the California Trade Secrets Act, the U.S. Defend Trade Secrets Act of 2016, your confidentiality and non-disclosure agreements with NCR, and any other applicable federal, state and common law protections afforded proprietary business and trade secret information.

(k) **Non-U.S. Country-Specific Amendments.** The restrictions contained in Section 9(b)(2) and/or (3) do not apply to you if, following the termination of your NCR employment, you continue to reside or work in a country that mandates, as a non-waiveable condition, continued pay during the Restricted Period, unless NCR advises you it will tender such pay, which shall be in the minimum amount required by local law. Section 9(b)(2) and/or (3) do not apply to you if you are terminated without cause (as this term or concept is defined by applicable law) and you reside in a country that requires termination for cause in order to enforce post-employment non-competition and/or non-solicitation restrictions. [FOR EMPLOYEES IN ARGENTINA, BELGIUM, China, Czech Republic, Israel, Serbia ONLY:] The restrictions set forth in Section 9(b)(2) and/or (3), as the case may be, shall have the additional consideration of a monthly payment from NCR during the term of the Agreement in such amount as is minimally required by law ("**Non-Competition Compensation**"); however, NCR may at any time, and at its sole discretion, waive the obligations and duties set forth in Section 9(b)(2) and/or (3), which shall release NCR from the obligation of making Non-Competition Compensation payments. Subject to the foregoing and local law, Non-Competition Compensation, if calculated based on monthly salary, will exclude any bonus, commissions, ex gratia payments, payments under any share option or incentive plan, benefits, "thirteenth-month" salary, or any payment in respect of any vacation entitlement accrued or that would have accrued during the period of the Agreement, and the payment of Non-Competition Compensation shall be made in monthly installments starting 1-month after the start of the Restricted Period (or, if applicable law mandates a maximum time that is shorter than 1 month, then for a period of time equal to that shorter maximum period) ("**Payment Period**"). If NCR does not commence the Non-Competition Compensation payments within the Payment Period, this shall affect a mutual release of Section 9(b)(2) and (3) obligations and no separate waiver need be provided by NCR. In such circumstances, you will not be subject to any ongoing non-competition or non-solicitation obligations, nor will NCR have any obligation to pay the Non-Competition Compensation; however, this release does not extend to the obligations under Section 9(b)(1), which will continue to apply. [FOR EMPLOYEES IN DENMARK, FRANCE, GERMANY ONLY:] Section 9(b)(2) and (3) of this Section do not apply to you if, following the termination of your NCR employment, you continue to reside or work in Denmark, France, or Germany; however, Section 9(b)(1) shall continue to apply. [FOR EMPLOYEES IN UAE ONLY:] In the event that you breach the Section 9(b)(3) Non-Competition restrictive covenant, you acknowledge that NCR will suffer irreparable damage, and you promise to pay NCR on demand damages in a sum equal to the amount of 6 months of your salary that was in effect when your NCR employment ended. You acknowledge that this sum represents a reasonable estimate of damages that NCR will suffer, and that, where local law allows, NCR may seek additional compensatory damages.

(l) [FOR U.S. EMPLOYEES ONLY:] Pursuant to the Defend Trade Secrets Act of 2016, you understand that: an individual may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (i) is made (a) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (b) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. Further, an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the employer's trade secrets to the attorney and use the trade secret information in the court proceeding if the individual: (i) files any document containing the trade secret under seal; and (ii) does not disclose the trade secret, except pursuant to court order.

**10. Arbitration, and Class, Collective, and Representative Action Waiver.** [FOR U.S. EMPLOYEES ONLY:] You and NCR (collectively, the "Parties") agree that any controversy or claim arising out of or related to this Agreement and/or with respect to your employment with NCR shall be resolved by binding arbitration; the obligation to arbitrate shall also extend to and encompass any claims that you may have or assert against any NCR employees, officers, directors or agents. Notwithstanding the foregoing, the following disputes and claims are not covered by this Arbitration provision and shall therefore be resolved in any appropriate forum as required by the laws then in effect: claims for workers' compensation benefits, unemployment insurance, or state or federal disability insurance; claims for temporary or preliminary injunctive relief (including a temporary restraining order) in aid of arbitration or to maintain the status quo pending arbitration; and any other dispute or claim that has been expressly excluded from arbitration by statute. The Parties further agree that in the event of a breach of this Agreement, NCR or you may, in addition to any other available remedies, bring an action in a Court of competent jurisdiction for equitable relief pending appointment of an arbitrator and completion of an arbitration; and, in such instance, shall not be required to post a bond. If any portion of this Arbitration provision is held unenforceable, it shall be severed and shall not affect the duty to arbitrate nor any other part of this Section. In addition:

(a) The Parties agree that any demand for arbitration shall be filed within the statute of limitations applicable to the claim or claims upon which arbitration is sought or required, or the claim shall be barred. Arbitration shall be conducted in accordance with the Employment Arbitration Rules and Mediation Procedures of the American Arbitration Association (available at [www.ADR.org](http://www.ADR.org)) to the extent not inconsistent with the terms of this Agreement. The arbitrator shall allow discovery in the form of: (1) the mutual exchange of documents (as defined under the Federal Rules of Civil Procedure) pertaining to the claim being arbitrated and for which there is a direct and demonstrable need; and (2) up to three depositions by each party. However, notwithstanding these general limitations, upon good cause shown, in a personal or telephonic hearing, the arbitrator may allow additional, non-burdensome discovery. The arbitrator shall balance the likely importance of the requested materials with the cost and burden of the discovery sought, and when disproportionate, the arbitrator may deny the request(s) or require that the requesting party advance the reasonable cost of production to the other side. Issues of arbitrability shall be determined in accordance with the U.S. federal substantive and procedural laws relating to arbitration; in all other respects, this Agreement shall be governed by the laws of the State of Georgia in the United States, without regard to its conflict-of-laws principles, and the arbitration shall be held in the metropolitan Atlanta, Georgia area, with the exception of employees who primarily reside and work in California or Washington, for whom arbitration shall be held in California and Washington respectively, and with respect to controversies arising in California, to which California law shall apply. The arbitration shall be held before a single arbitrator who is an attorney having at least five years of experience in employment law. The arbitrator's decision and award shall be written, final and binding and may be entered in any court having jurisdiction. The Parties agree that nothing in this Agreement relieves them from any obligation they may have to exhaust certain administrative remedies before arbitrating any claims or disputes under this Agreement. Each party shall bear its own attorney fees associated with the arbitration; other costs, and the expenses of the arbitration, shall be borne as provided by the rules of the American Arbitration Association.

(b) **Class, Collective and/or Representative Action Waiver.** To the maximum extent permitted by law: (1) all covered claims under this Agreement must be brought in your individual capacity, and not as a plaintiff or class member in any purported class, collective or representative proceeding; (2) no claims may be brought or maintained on a class, collective or representative basis either in Court or in arbitration, notwithstanding the rules of the arbitral body; (3) such claims will be decided on an individual basis in arbitration pursuant to this Agreement; and (4) the Parties expressly waive any right with respect to any covered claims to submit, initiate, or participate as a plaintiff, claimant or member in a class action or collective action, regardless of whether the action is filed in arbitration or in court. Claims may not be joined or consolidated in arbitration with disputes brought by or against other individual(s), unless agreed to in writing by the Parties (you, NCR, and the other individual(s)). Any issue concerning the validity of this class, collective or representative action waiver, and whether an action may proceed as a class, collective or representative action, must be decided by a Court, and an arbitrator shall not have authority to consider the issue of the validity of this waiver or whether the action may proceed as a class, collective or representative action. If, for any reason, this class, collective and/or representative action waiver is determined

to be unenforceable, then the class, collective or representative claim may proceed only in a Court of competent jurisdiction and may not be arbitrated. No arbitration award or decision will have any preclusive or estoppel effect as to issues or claims in any future dispute.

**11. Compensation Recovery Policy.** By accepting the Stock Units, you agree that, to the extent the Stock Units constitute “Covered Incentive Compensation” under NCR’s Compensation Recovery Policy as amended from time to time (the “Recovery Policy”), then notwithstanding any provision of this Agreement, you may forfeit the Stock Units or be required to repay the Shares or Stock Units or the proceeds received from disposing of Shares or Stock Units under the Recovery Policy. You agree that NCR may, to the extent permitted or required by law or regulation (including the Dodd-Frank Act), enforce any repayment obligation under the Recovery Policy by reducing any amounts that may be owing from time to time by NCR to you, whether in the form of wages, severance, vacation pay or any other benefit or for any other reason, or enforce any other recoupment permitted by applicable law or regulation.

**12. Beneficiaries.** Beneficiaries may be designated (and designations may be changed or revoked), in the manner required by the Plan Administrator, to receive all or part of Stock Units in case of your death. In the event of your death, any portion of the Stock Units subject to such a designation that has not been superseded, modified or revoked in accordance with such procedures will be distributed to such beneficiary or beneficiaries in accordance with this Agreement. Any other portion of the Stock Units not designated by you will be distributable to your estate. If there is any question as to the legal right of any beneficiary to receive a distribution hereunder (as determined by NCR in its sole discretion), the Shares underlying the Stock Units in question may be purchased by and distributed to your estate, in which event NCR shall have no further liability to anyone with respect to such Shares. For information about TPA beneficiary procedures, or to revoke or change a beneficiary designation, call Fidelity at 1-800-544-9354 (U.S. grantees) or 1-800-544-0275 (non-U.S. grantees). Non-U.S. employees may access the toll-free number at: <https://www.fidelity.com/customer-service/phone-numbers/overview>.

**13. Data Privacy.** By entering into this Agreement, you understand and acknowledge that your personal data may be processed, in electronic or other form as described in the NCR Employee Privacy Notice applicable to your jurisdiction.

**14. Non-Disclosure of Confidential Information, Including Trade Secrets.** You acknowledge and agree that your employment with NCR created a relationship of confidence and trust between you and NCR with respect to confidential information of or within the possession of NCR (“NCR Confidential Information”). You further acknowledge and agree that your particular position and its job duties exposed you to a broad variety of sensitive, confidential and non-public information of competitive or other value. You warrant and agree that (a) you will keep in confidence and trust all NCR Confidential Information; (b) you have not transferred, used or disclosed any NCR Confidential Information, or assisted others in transferring, using or disclosing NCR Confidential Information, other than as necessary in the ordinary course of performing your duties as an NCR employee and in accordance with NCR’s policies; and (c) you will not transfer, use or disclose NCR Confidential Information, or assist others with the transfer, use or disclosure of NCR Confidential Information, without the prior written consent of NCR, which may be granted or withheld in NCR’s sole discretion, for any reason or no reason. [US EMPLOYEES ONLY:] Notwithstanding the foregoing, you shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (i) is made (A) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Should you receive a disclosure demand from any government agency, you may reach out to NCR’s General Counsel or its law department for assistance, but you are not required to do so. Further, nothing in this Agreement is intended to or shall preclude you from providing truthful testimony or providing truthful information in response to a valid subpoena, court order or discovery request in any public proceeding, provided, to the extent permitted by law, you have provided to NCR as much advance notice as practicable of any such compelled disclosure, so as to enable NCR to seek to limit, condition or quash such disclosure.

**15. Compensation; No Advice Regarding Grant.** Your Plan participation is voluntary. The value of your Award is an extraordinary item of income, is not part of your normal or expected compensation and will not be considered in calculating any severance, redundancy, end of service payments, bonus, long-service awards, pension, retirement or other benefits or similar payments. The Plan is discretionary in nature. The Award is a one-time benefit that creates no contractual or other right to further awards or other future benefits. Future grants (if any) and their terms are at the sole discretion of NCR. NCR is not (a) providing any tax, legal or financial advice, or (b) making any recommendations about your Plan participation, or any transaction relating to your Stock Units or the underlying Shares. You should consult with your own personal tax, legal and financial advisors before taking any Plan-related action.

**16. Electronic Documents and TPA Information.** This Agreement, including without limitation Section 9, is executed electronically, and is immediately binding upon your electronic acceptance. If you reside in a country that requires original ink signatures on paper, you waive this requirement to the extent permitted by law. You agree to receive all Award related documents electronically, and to participate in the Plan online through the TPA electronic system. Summaries and other information shown on the TPA website, which may be updated from time to time, shall be subject to the determinations of the Committee and the Plan Administrator, the Plan and this Agreement. The determinations of the Committee and the Plan Administrator, the Plan and this Agreement will govern in the event of any conflict with such TPA website summaries and other information.

**17. Severability, Waiver and Conflicting Terms.** The provisions of this Agreement are severable. If a court or other tribunal of competent jurisdiction holds any provision unenforceable or invalid, such provision will be severed and will not affect any other part hereof, which will be enforced as permitted by law; except that to the extent such invalid provision can be rendered valid by modification, you agree that the court or tribunal shall so modify such provision to render it valid and enforceable to the fullest extent permitted by law. You acknowledge that a waiver by NCR of breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision of this Agreement or any subsequent breach of this Agreement. If this Agreement conflicts with the Plan in any respect, the Plan terms will prevail, except that Section 10 of this Agreement will prevail with respect to the law governing this Agreement and all claims relating to this Agreement.

**18. Amendment.** The NCR Board of Directors or the Committee or any delegate may amend your Award terms in this Agreement, except that no such amendment will be made that would materially impair your rights hereunder without your consent, except such an amendment made to comply with applicable law, including Code Section 409A, stock exchange rules or accounting rules.

**19. Rules for Participants in Non-U.S. Jurisdictions.** Notwithstanding anything herein or in the Plan to the contrary, if you are or become subject to the laws of a non-U.S. jurisdiction, your Award will be subject to (i) the special rules in Appendix A to this Agreement for your country and the laws and requirements of such non-U.S. jurisdiction to the extent so determined in the sole discretion of the Plan Administrator for legal or administrative reasons, and (ii) this Agreement's terms and conditions are deemed modified to the extent determined in the sole discretion of the Plan Administrator for legal or administrative reasons. Subject to Section 18, the Committee or the Plan Administrator may amend this Agreement before or after an Award is made and take any other action deemed appropriate in its sole discretion to obtain approval or comply with any necessary local governmental regulatory requirements or exemptions.

**20. Code of Conduct Certification; Compliance with Insider Trading Laws and NCR Insider Trading Policy; Code Section 409A Compliance.** Notwithstanding anything herein to the contrary, this Award of Stock Units and your right to receive payment of any Vested Stock Units are expressly conditioned upon your timely annual certification to the NCR Code of Conduct. If you do not timely provide any certification required by the Employer before vesting of any portion of the Stock Units, that portion of the Stock Units will be forfeited, except that no such forfeiture will occur unless you are provided written notice (which notice may be provided by email) of the impending forfeiture, and you do not provide your certification to NCR's Code of Conduct within thirty days following such notice.

With respect to any Shares distributed under this agreement, you understand and agree that you are responsible for reviewing, understanding and complying with Insider Trading laws and NCR's Insider Trading Policy (available on the internet or by request from the NCR Law Department), and that you may not trade in NCR securities except in compliance with the NCR Insider Trading Policy (as may be amended from time to time), which is incorporated herein by reference. You should consult an attorney if you have questions concerning such matters.

The parties intend that payments under this Agreement comply with Code Section 409A or are exempt therefrom, and this Agreement shall be interpreted, administered and governed in accordance with such intent.

**21. No Employment Modification.** The Plan and this Agreement do not constitute a contract of employment or impose on you or any Employer any obligation to retain you as an employee, to change the status of your employment, or to change the Employer's policies regarding termination of employment. For U.S. employees, employment with the Employer is at will, which means that you or the Employer may terminate the employment relationship at any time, with or without cause, unless otherwise provided in a valid, formal written employment agreement signed by you and an officer of the Employer.

**22. Execution and Validity of Agreement.** This Agreement shall be binding and effective upon NCR on the Grant Date. However, you will forfeit your Award and this Agreement shall have no force and effect if you do not duly execute it



electronically on the TPA website at [www.netbenefits.fidelity.com](http://www.netbenefits.fidelity.com), in the form required by the Plan Administrator, within ninety (90) days after the Grant Date (or by other date required by the Plan Administrator).

## APPENDIX A

### ROVISIONS FOR NON-U.S. PARTICIPANTS

#### Senior Executive Team Performance Share Restricted Stock Unit Award Agreement

##### Article I. Provisions for All Non-U.S. Participants

The following terms and conditions set forth in this Article I of Appendix A apply to Participants residing outside the United States or otherwise subject to the laws of a non-U.S. country. In general, the terms and conditions in this Appendix A supplement the provisions of the Agreement, unless otherwise indicated herein.

1. **Nature of Grant.** In accepting the grant, you acknowledge, understand and agree that: (a) the Stock Units and the Shares of Common Stock subject to the Stock Units are not intended to replace any pension rights or compensation; (b) the Stock Units and the Shares of Common Stock subject to the Stock Units and the income and value of same, are not part of normal or expected compensation for any purpose; (c) the future value of the underlying Shares of Common Stock is unknown, indeterminable and cannot be predicted with certainty; (d) no claim or entitlement to compensation or damages shall arise from forfeiture of the Stock Units resulting from your Termination of Employment (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where you are employed or the terms of your employment agreement, if any), and in consideration of the grant of Stock Units to which you are otherwise not entitled, you irrevocably agree never to institute any claim against NCR, any of its Subsidiaries or Affiliates or the Employer, waive your ability, if any, to bring any such claim, and release NCR, its Subsidiaries and Affiliates, and the Employer from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, you shall be deemed irrevocably to have agreed not to pursue such claim and agree to execute any and all documents necessary to request dismissal or withdrawal of such claim; (e) for purposes of the Stock Units, your employment or service relationship will be considered terminated as of the date you are no longer actively providing services to NCR or the Employer (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where you are employed or the terms of your employment agreement, if any) and unless otherwise expressly provided in this Agreement or determined by NCR, your right to vest in the Stock Units under the Plan, if any, will terminate as of such date and will not be extended by any notice period (for example, your period of service would not include any contractual notice period or any period of “garden leave” or similar period mandated under employment laws in the jurisdiction where you are employed or the terms of your employment agreement, if any); the Committee shall have the exclusive discretion to determine when you are no longer actively providing services for purposes of your Award (including whether you may still be considered to be providing services while on a leave of absence); (f) unless otherwise provided in the Plan or by the Company in its discretion, the Award and the benefits evidenced by this Agreement do not create any entitlement to have the Award or any such benefits transferred to, or assumed by, another company nor to be exchanged, cashed out or substituted for, in connection with any corporate transaction affecting the Shares of the Company; and (g) neither NCR, the Employer nor any Subsidiary or Affiliate shall be liable for any foreign exchange rate fluctuation between your local currency and the United States Dollar that may affect the value of the Stock Units or of any amounts due to you pursuant to the settlement of the Stock Units or the subsequent sale of any Shares of Common Stock acquired upon settlement.

2. **Language.** If you received this Agreement or any Plan related document translated into a non-English language, the English versions will control in the event of conflict. You acknowledge that it is your express wish that this Agreement, as well as all documents, notices, and legal proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto, be drawn up in English. By accepting your Award, you confirm having read and understood the Plan and this Agreement, including all terms and conditions of each, which were provided in English. You accept the terms of those documents accordingly.

3. **Conditions for Issuance.** Notwithstanding any other provision of the Plan or this Agreement, unless there is an available exemption from any registration, qualification or other legal requirement applicable to the Shares, the Company shall not be required to deliver any Shares issuable upon settlement of the Stock Units prior to the completion of any registration or qualification of the Shares under any local, state, federal or foreign securities or exchange control law or under rulings or regulations of the U.S. Securities and Exchange Commission (“SEC”) or of any other governmental regulatory body, or prior to obtaining any approval or other clearance from any local, state, federal or foreign governmental agency, which registration, qualification or approval the Company shall, in its absolute discretion, deem necessary or advisable. You understand that the Company is under no obligation to register or qualify the Shares with the SEC or any state or foreign securities commission or to seek approval or clearance from any governmental authority for the issuance or sale of the Shares. The grant of Stock Units is not intended to be a public offering of securities in your country, and the Company has not submitted any registration statement, prospectus or other filings with the local securities authorities in connection with this grant, and the grant of the Stock Units is not subject to the supervision of the local securities authorities.

4. **Repatriation and Other Non-U.S. Compliance Requirements.** As a condition of the grant of your Stock Units, you agree to repatriate all payments attributable to the Shares of NCR Common Stock and/or cash acquired under the Plan (including, but not limited to, dividends and dividend equivalents) in accordance with local foreign exchange rules and regulations in your country of residence (and your country of employment, if different). In addition, you also agree to take any and all actions, and consent to any and all actions taken by the Company, its Subsidiaries and Affiliates, as may be required to allow the Company, its Subsidiaries and Affiliates to comply with local laws, rules and regulations in your country of residence (and your country of employment, if different). Finally, you agree to take any and all actions as may be required to comply with your personal legal and tax obligations under local tax, exchange control, insider trading and other laws, rules and regulations in your country of residence (and your country of employment, if different) with respect to the Stock Units and the NCR Common Stock issued with respect thereto.

5. **Insider Trading Restrictions/Market Abuse Laws.** You acknowledge that your country of residence may subject you to insider trading and/or market abuse laws, which may restrict your ability to acquire or sell Shares or rights to such Shares (e.g., Stock Units) under the Plan during times you are considered to have “inside information” about NCR (as defined by your country’s laws). Such restrictions apply in addition to any NCR insider trading policy restrictions. You acknowledge that it is your responsibility to comply with any applicable restrictions. You should consult with your personal advisor on these matters.

## **Article II. Country-Specific Provisions for Non-U.S. Participants**

This Article II of Appendix A includes special terms and conditions that apply if you reside in the below countries. These terms and conditions are in addition to (or, if indicated, in place of) those set forth in the Agreement. Capitalized terms used but not defined in this Article II have Agreement definitions (or if none, the Plan definitions). This Article II also includes information relating to exchange control and other issues that you should be aware with respect to Plan participation. The information is based on the exchange control, securities and other laws in effect in the respective countries as of the Grant Date. Such laws are often complex and change frequently. As a result, NCR strongly recommends that you do not rely on the information herein as the only source of information relating to the consequences of participation in the Plan because the information may be out of date at the time the Stock Units are Vested or Shares acquired under the Plan are sold. In addition, the information is general in nature and may not apply to your particular situation and NCR is not in a position to assure you of any particular result. Accordingly, you are advised to seek appropriate professional advice as to how the relevant laws in your country may apply to your situation. Finally, if you are a citizen or resident of a country other than the one in which you are currently working, are considered a citizen or resident of another country for local law purposes, or transfer employment or residency to another country after the Grant Date, the notifications contained herein may not be applicable to you. In addition, NCR shall, in its discretion, determine to what extent the terms and conditions contained herein shall be applicable to you.

### **CHINA**

**Settlement of Stock Units.** This provision supplements Section 3 of the Agreement. To facilitate compliance with exchange control laws and regulations in the People’s Republic of China (“China”), you agree to the sale of any Shares to be issued upon vesting and settlement of the Stock Units. The sale will occur (i) immediately upon vesting and settlement of the Stock Units, (ii) following your Termination of Employment, or (iii) within any other time frame as the Company determines to be necessary to facilitate compliance with local regulatory requirements. You further agree that the Company is authorized to instruct its designated broker to assist with the mandatory sale of such Shares (on your behalf pursuant to this authorization) and you expressly authorize the Company’s designated broker to complete the sale of such Shares. You agree to sign any agreements, forms and/or consents that may be reasonably requested by NCR (or the broker) to effectuate the sale of the Shares of Common Stock and shall otherwise cooperate with NCR with respect to such matters. You acknowledge that neither NCR nor the broker is under any obligation to arrange for the sale of the Shares of Common Stock at any particular price and that broker’s fees and similar expenses may be incurred in any such sale. In any event, when the Shares of Common Stock are sold, the proceeds of the sale of such Shares, less any Tax-Related Items and the broker’s fees, commissions or similar expenses, will be remitted to you in accordance with applicable exchange control laws and regulations.

**Exchange Control Restrictions.** You understand and agree that, if you are subject to exchange control laws in China, you will be required to immediately repatriate to China the proceeds from the sale of any Shares acquired under the Plan. You further understand that such repatriation of the proceeds may need to be effected through a special exchange control account established by NCR or a Subsidiary or Affiliate, and you hereby consent and agree that the proceeds from the sale of Shares acquired under the Plan may be transferred to such account by NCR (or the broker) on your behalf prior to being delivered to you. You also agree to sign any agreements, forms and/or consents that may be reasonably requested by NCR (or the broker) to effectuate such transfers.

The proceeds may be paid to you in U.S. dollars or local currency at NCR’s discretion. If the proceeds are paid to you in U.S. dollars, you understand that you will be required to set up a U.S. dollar bank account in China so that the proceeds may be deposited into this account. If the proceeds are paid to you in local currency, (i) you acknowledge that NCR is under no obligation to secure any particular exchange conversion rate and that NCR may face delays in converting the proceeds to local currency due to exchange control restrictions, and (ii) you agree to bear any currency fluctuation risk between the time the Shares are sold and the time the proceeds are converted to local currency and distributed to you. Finally, you agree to comply with any other requirements that may be imposed by NCR in the future in order to facilitate compliance with exchange control requirements in China.

## ISRAEL

**Trust Arrangement.** You understand and agree that this Award is offered subject to and in accordance with the terms of the Plan and its Israeli specific terms in this Article II of Appendix A. Upon vesting, the Shares shall be controlled by the Company's trustee appointed by the Company or its Subsidiary or Affiliate in Israel (the "Trustee") for your benefit for at least such period of time as required by Section 102 or any shorter period determined under the Israeli Income Tax Ordinance (New Version), 5721-1961 as now in effect or as hereafter amended (the "Ordinance") (with respect to the "capital gain route") or by the Israeli Tax Authority (the "LockUp Period"). You shall be able to request the sale of the Shares or the release of the Shares from the Trustee, subject to the terms of the Plan, this Agreement and any applicable Israeli tax law. Without derogating from the aforementioned, if the Shares are released by the Trustee during the LockUp Period, the sanctions under Section 102 of the Ordinance shall apply to and be borne by you. The Shares shall not be sold or released from the control of the Trustee unless the Company, the Subsidiary or Affiliate and the Trustee are satisfied that the full amount of Tax-Related Items due have been paid or will be paid in relation thereto. Notwithstanding any provision of this Agreement or the Plan to the contrary except the provisions in Section 4 of this Agreement relating to a Good Reason Termination (as defined herein) or your Retirement (in each case, to the extent specifically applicable to you), in the event of your resignation from service with NCR or the Employer due to any reason, including worsening of employment conditions, or any other reason relating to conditions of employment, all unvested Stock Units will automatically terminate and be forfeited and no Shares or cash will be issued or paid to you (as the case may be).

SUBSIDIARIES OF NCR CORPORATION  
as of December 31, 2020

<b>Name of Subsidiary</b>	<b>Jurisdiction of Incorporation</b>
Athletics Acquisition, Inc.	Delaware
D3 Technology, Inc.	Delaware
Data Pathing Holdings LLC	Delaware
Kalamazoo River Areas 2, 3 and 4 Remediation LLC	Delaware
NCR EasyPoint LLC	Delaware
NCR European and South American Holdings LLC	Delaware
NCR Foreign Investco 1, LLC	Delaware
NCR Government Systems LLC	Delaware
NCR Indonesia LLC	Delaware
NCR International, Inc.	Delaware
NCR Italia Holdings LLC	Delaware
NCR Latin American Holdings LLC	Delaware
NCR Middle East Holdings, LLC	Delaware
NCR Payment Solutions Corporation	Delaware
NCR Payment Solutions, FL, LLC	Delaware
NCR Poland LLC	Delaware
NCR Receivables LLC	Delaware
NCR Solutions (Middle East) LLC	Delaware
North American Research Corporation	Delaware
Quantor Holdings LLC	Delaware
StopLift, Inc.	Delaware
Zynstra Holdings, Inc.	Delaware
Zynstra, Inc.	Delaware
Radiant Payment Services, LLC	Georgia
The National Cash Register Company	Maryland
NCR Payroll & HR Solutions, Inc.	Pennsylvania
NCR Payment Solutions, PA, LLC	Pennsylvania
Payroll Tax Filing Services, Inc.	Pennsylvania
NCR Payment Solutions, LLC	Texas
TCR Business Systems, Inc.	Texas
Texas Digital Systems, Inc.	Texas
NCR Argentina S.R.L.	Argentina
NCR Australia Pty Limited	Australia
Retalix Australia Pty Ltd	Australia
NCR Oesterreich Ges.m.b.H.	Austria
Orderman GmbH	Austria
Radiant Systems GmbH	Austria
NCR (Bahrain) W.L.L.	Bahrain
NCR Hospitality Bahrain SPC	Bahrain
NCR Belgium & Co. SNC	Belgium

SUBSIDIARIES OF NCR CORPORATION  
as of December 31, 2020

Global Assurance Limited	Bermuda
NCR d.o.o. Banja Luka	Bosnia
NCR Brasil Tecnologia e Servicos em Automacao Ltda.	Brazil
NCR Brasil – Industria de Equipamentos para Automacao Ltda.	Brazil
NCR Brasil Ltda	Brazil
Wyse Sistemas de Informatica Ltda	Brazil
NCR Canada Corp.	Canada
NCR Chile Industrial y Comercial Limitada	Chile
NCR Comercial E Inversiones Limitada	Chile
NCR (Beijing) Financial Equipment System Co., Ltd.	China
NCR (Guangzhou) Technology Co., Ltd.	China
NCR (Shanghai) Technology Services Ltd.	China
Retalix Technology (Beijing) Co. Ltd.	China
NCR Colombia Ltda	Colombia
Papeles y Suministros del Cuaca S.A. (Joint Venture)	Colombia
GHS Medtech Ltd.	Cyprus
NCR (Cyprus) Limited	Cyprus
NCR (Middle East) Limited	Cyprus
NCR (North Africa) Limited	Cyprus
NCR Global Financing Limited	Cyprus
NCR Ceska Republika spol. S.r.o.	Czech Republic
NCR Danmark A/S	Denmark
NCR Dominicana SRL	Dominican Republic
NCR Finland OY	Finland
4Front Technologies SA France	France
NCR France, SNC	France
NCR Antilles S.A.R.L.	French W.I.
NCR GmbH	Germany
NCR Ghana Limited	Ghana
NCR (Hellas) Single Member S.A.	Greece
NCR (Hong Kong) Limited	Hong Kong
NCR Magyarorszag Informacio-Technologiai Kft.	Hungary
Digital Insight India Products Private Limited	India
NCR Corporation India Private Limited	India
StopLift Infotech Private Limited	India
PT. NCR Indonesia	Indonesia
NCR Global Holdings Limited	Ireland
NCR Global Solutions Limited	Ireland

SUBSIDIARIES OF NCR CORPORATION  
as of December 31, 2020

Moon Holdings S.P.V. Ltd.	Israel
NCR Global Ltd.	Israel
NCR Israel Ltd.	Israel
Tamar Industries M.R. Electronics (1985) Ltd.	Israel
NCR Italia S.r.l.	Italy
NCR Japan Ltd.	Japan
NCR (Kenya) Limited	Kenya
NCR Korea Co. Ltd.	Korea
RADS International SARL	Luxembourg
NCR (Macau) Limited	Macau
NCR Payments and Services Malaysia Sdn Bhd	Malaysia
NCR (Malaysia) Sdn Bhd	Malaysia
Radiant Systems Retail Solutions Sdn Bhd	Malaysia
NCR de Mexico S. de R.L. de C.V.	Mexico
NCR Solutions de Mexico S. de R.L. de C.V.	Mexico
Global Acquisition C.V.	Netherlands
NCR Dutch Holdings B.V.	Netherlands
NCR Nederland B.V.	Netherlands
NCR (NZ) Corporation	New Zealand
N.C.R. (Nigeria) PLC	Nigeria
NCR Norge AS	Norway
NCR Corporation de Centroamerica S.A.	Panama
NCR del Peru S.A.	Peru
NCR Cebu Development Center, Inc.	Philippines
NCR Corporation (Philippines)	Philippines
NCR Polska sp.z.o.o.	Poland
NCR Iberia Unipessoal, Lda.	Portugal
NCR Qatar LLC	Qatar
NCR A/O	Russia
NCR d.o.o. Beograd	Serbia
NCR Asia Pacific Pte Ltd	Singapore
NCR Singapore Pte Ltd	Singapore
NCR International (South Africa) (Pty) Ltd.	South Africa
NCR Espana, S.L.	Spain
National Registrerkassen AG	Switzerland
NCR (Switzerland) GmbH	Switzerland
NCR Systems Taiwan Ltd.	Taiwan
NCR (Thailand) Limited	Thailand
Radiant Systems Co. Ltd.	Thailand
NCR Bilisim Sistemleri, L.S.	Turkey
NCR Ukraine Limited	Ukraine

SUBSIDIARIES OF NCR CORPORATION  
as of December 31, 2020

NCR Financial Solutions Group Limited  
NCR Limited  
NCR UK Group Limited  
Zynstra Limited  
N. Timms & Co. (Private) Ltd  
NCR Zimbabwe (Private) Ltd

United Kingdom  
United Kingdom  
United Kingdom  
United Kingdom  
Zimbabwe  
Zimbabwe



CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-231034) and S-8 (Nos. 333-18797, 333-139553, 333-215248, 333-217574, and 333-249798) of NCR Corporation of our report dated February 26, 2021 relating to the financial statements and financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP  
Atlanta, Georgia  
February 26, 2021

## CERTIFICATION

I, Michael D. Hayford, certify that:

1. I have reviewed this Annual Report on Form 10-K of NCR Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 26, 2021

/s/ Michael D. Hayford

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Michael D. Hayford  
President and Chief Executive Officer

## CERTIFICATION

I, Timothy C. Oliver, certify that:

1. I have reviewed this Annual Report on Form 10-K of NCR Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 26, 2021

/s/ Timothy C. Oliver

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Timothy C. Oliver  
Executive Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of NCR Corporation (the "Company") for the period ending December 31, 2020 as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned officers of the Company does hereby certify, pursuant to 18 U.S.C. § 1350 (section 906 of the Sarbanes-Oxley Act of 2002), that:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

The foregoing certification (i) is given to such officers' knowledge, based upon such officers' investigation as such officers reasonably deem appropriate; and (ii) is being furnished solely pursuant to 18 U.S.C. § 1350 (section 906 of the Sarbanes-Oxley Act of 2002) and is not being filed as part of the Report or as a separate disclosure document.

Dated: February 26, 2021

/s/ Michael D. Hayford

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Michael D. Hayford  
President and Chief Executive Officer

Dated: February 26, 2021

/s/ Timothy C. Oliver

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Timothy C. Oliver  
Executive Vice President and Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signatures that appear in typed form within the electronic version of this written statement required by Section 906, has been provided to NCR Corporation and will be retained by NCR Corporation and furnished to the United States Securities and Exchange Commission or its staff upon request.