

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended April 30, 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 001-34956

CONN'S, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

06-1672840

(I.R.S. Employer Identification Number)

2445 Technology Forest Blvd., Suite 800, The Woodlands, TX

(Address of principal executive offices)

77381

(Zip Code)

Registrant's telephone number, including area code: **(936) 230-5899**

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value \$0.01 per share	CONN	NASDAQ Global Select Market

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 and post 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	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of May 28, 2020:

Class	Outstanding
Common stock, \$0.01 par value per share	29,020,752

CONN'S, INC. AND SUBSIDIARIES
FORM 10-Q
FOR THE FISCAL QUARTER ENDED APRIL 30, 2020

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This Quarterly Report on Form 10-Q includes our trademarks such as “Conn’s,” “Conn’s HomePlus,” “YES YOU’RE APPROVED,” “YES Money,” “YES Money,” “YES Lease,” “YES Lease,” and our logos, which are protected under applicable intellectual property laws and are the property of Conn’s, Inc. This report also contains trademarks, service marks, trade names and copyrights of other companies, which are the property of their respective owners. Solely for convenience, trademarks and trade names referred to in this Quarterly Report may appear without the ® or TM symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the rights of the applicable licensor to these trademarks and trade names.

References to “we,” “our,” “us,” “the Company,” “Conn’s” or “CONN” refer to Conn’s, Inc. and, as apparent from the context, its consolidated bankruptcy-remote variable-interest entities (“VIEs”), and its wholly-owned subsidiaries.

PART I. FINANCIAL INFORMATION**ITEM 1. FINANCIAL STATEMENTS**

CONN'S, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(unaudited and dollars in thousands, except per share amounts)

	April 30, 2020	January 31, 2020
Assets		
Current assets:		
Cash and cash equivalents	\$ 287,337	\$ 5,485
Restricted cash (includes VIE balances of \$71,188 and \$73,214, respectively)	73,455	75,370
Customer accounts receivable, net of allowances (includes VIE balances of \$288,330 and \$393,764, respectively)	548,169	673,742
Other accounts receivable	52,864	68,753
Inventories	204,923	219,756
Income taxes receivable	22,397	4,315
Prepaid expenses and other current assets	7,725	11,445
Total current assets	1,196,870	1,058,866
Long-term portion of customer accounts receivable, net of allowances (includes VIE balances of \$252,013 and \$420,454, respectively)	530,385	663,761
Property and equipment, net	186,655	173,031
Operating lease right-of-use assets	264,230	242,457
Deferred income taxes	46,746	18,599
Other assets	12,400	12,055
Total assets	\$ 2,237,286	\$ 2,168,769
Liabilities and Stockholders' Equity		
Current liabilities:		
Current finance lease obligations	\$ 772	\$ 605
Accounts payable	61,437	48,554
Accrued compensation and related expenses	10,066	10,795
Accrued expenses	65,329	52,295
Operating lease liability - current	31,367	35,390
Income taxes payable	3,187	2,394
Deferred revenues and other credits	13,221	12,237
Total current liabilities	185,379	162,270
Operating lease liability - non current	355,868	329,081
Long-term debt and finance lease obligations (includes VIE balances of \$607,920 and \$768,121, respectively)	1,172,987	1,025,535
Other long-term liabilities	27,243	24,703
Total liabilities	1,741,477	1,541,589
Commitments and contingencies		
Stockholders' equity:		
Preferred stock (\$0.01 par value, 1,000,000 shares authorized; none issued or outstanding)	—	—
Common stock (\$0.01 par value, 100,000,000 shares authorized; 32,493,973 and 32,125,055 shares issued, respectively)	325	321
Treasury stock (at cost; 3,485,441 shares and 3,485,441 shares, respectively)	(66,290)	(66,290)
Additional paid-in capital	123,831	122,513
Retained earnings	437,943	570,636
Total stockholders' equity	495,809	627,180
Total liabilities and stockholders' equity	\$ 2,237,286	\$ 2,168,769

See notes to condensed consolidated financial statements.

CONN'S, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited and dollars in thousands, except per share amounts)

	Three Months Ended	
	April 30,	
	2020	2019
Revenues:		
Product sales	\$ 207,198	\$ 234,445
Repair service agreement commissions	20,101	24,024
Service revenues	3,031	3,510
Total net sales	230,330	261,979
Finance charges and other revenues	86,830	91,533
Total revenues	317,160	353,512
Costs and expenses:		
Cost of goods sold	147,014	157,228
Selling, general and administrative expense	113,007	117,914
Provision for bad debts	117,326	40,046
Charges and credits	2,055	(695)
Total costs and expenses	379,402	314,493
Operating income (loss)	(62,242)	39,019
Interest expense	14,993	14,497
Income (loss) before income taxes	(77,235)	24,522
Provision (benefit) for income taxes	(21,033)	5,013
Net income (loss)	\$ (56,202)	\$ 19,509
Income (loss) per share:		
Basic	\$ (1.95)	\$ 0.61
Diluted	\$ (1.95)	\$ 0.60
Weighted average common shares outstanding:		
Basic	28,822,396	31,882,003
Diluted	28,822,396	32,443,884

See notes to condensed consolidated financial statements.

CONN'S, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(unaudited and in thousands, except for number of shares)

	Common Stock		Additional Paid-in Capital	Retained Earnings	Treasury Stock		Total
	Shares	Amount			Shares	Amount	
Balance January 31, 2020	32,125,055	\$ 321	\$ 122,513	\$ 570,636	(3,485,441)	\$ (66,290)	\$ 627,180
Adoption of ASU 2016-13	—	—	—	(76,491)	—	—	(76,491)
Exercise of options and vesting of restricted stock, net of withholding tax	321,468	3	(1,288)	—	—	—	(1,285)
Issuance of common stock under Employee Stock Purchase Plan	47,450	1	176	—	—	—	177
Stock-based compensation	—	—	2,430	—	—	—	2,430
Net loss	—	—	—	(56,202)	—	—	(56,202)
Balance April 30, 2020	32,493,973	\$ 325	\$ 123,831	\$ 437,943	(3,485,441)	\$ (66,290)	\$ 495,809

	Common Stock		Additional Paid-in Capital	Retained Earnings	Treasury Stock		Total
	Shares	Amount			Shares	Amount	
Balance January 31, 2019	31,788,162	\$ 318	\$ 111,185	\$ 508,472	—	\$ —	\$ 619,975
Adoption of ASU 2016-02	—	—	—	6,160	—	—	6,160
Exercise of options and vesting of restricted stock, net of withholding tax	136,206	1	(1,241)	—	—	—	(1,240)
Issuance of common stock under Employee Stock Purchase Plan	12,158	—	198	—	—	—	198
Stock-based compensation	—	—	3,217	—	—	—	3,217
Net income	—	—	—	19,509	—	—	19,509
Balance April 30, 2019	31,936,526	\$ 319	\$ 113,359	\$ 534,141	—	\$ —	\$ 647,819

See notes to condensed consolidated financial statements.

CONN'S, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited and in thousands)

	Three Months Ended April 30,	
	2020	2019
Cash flows from operating activities:		
Net income (loss)	\$ (56,202)	\$ 19,509
Adjustments to reconcile net income to net cash from operating activities:		
Depreciation	9,817	8,852
Change in right-of-use asset	7,534	6,739
Amortization of debt issuance costs	2,049	1,773
Provision for bad debts and uncollectible interest	137,456	52,330
Stock-based compensation expense	2,430	3,217
Charges, net of credits	2,055	(695)
Deferred income taxes	(5,975)	1,224
Tenant improvement allowances received from landlords	3,969	4,807
Change in operating assets and liabilities:		
Customer accounts receivable	22,999	(8,352)
Other accounts receivables	15,722	1,500
Inventories	14,833	6,932
Other assets	2,985	(7,164)
Accounts payable	12,884	(13,852)
Accrued expenses	4,258	(11,149)
Operating leases	(10,514)	(4,499)
Income taxes	(14,748)	(12,212)
Deferred revenues and other credits	972	700
Net cash provided by operating activities	152,524	49,660
Cash flows from investing activities:		
Purchases of property and equipment	(16,682)	(13,119)
Net cash used in investing activities	(16,682)	(13,119)
Cash flows from financing activities:		
Proceeds from issuance of asset-backed notes	—	381,790
Payments on asset-backed notes	(161,534)	(95,214)
Borrowings under revolving credit facility	591,424	323,138
Payments on revolving credit facility	(284,524)	(589,638)
Payments on warehouse facility	—	(28,951)
Payments of debt issuance costs and amendment fees	(4)	(3,442)
Proceeds from stock issued under employee benefit plans	177	403
Tax payments associated with equity-based compensation transactions	(1,285)	(1,454)
Other	(159)	(300)
Net cash provided by (used in) financing activities	144,095	(13,668)
Net change in cash, cash equivalents and restricted cash	279,937	22,873
Cash, cash equivalents and restricted cash, beginning of period	80,855	64,937
Cash, cash equivalents and restricted cash, end of period	\$ 360,792	\$ 87,810
Non-cash investing and financing activities:		
Right-of-use assets obtained in exchange for new finance lease liabilities	\$ 757	\$ 436
Right-of-use assets obtained in exchange for new operating lease liabilities	\$ 38,239	\$ 22,030
Property and equipment purchases not yet paid	\$ 11,965	\$ 5,594
Supplemental cash flow data:		
Cash interest paid	\$ 8,608	\$ 8,605
Cash income taxes paid (refunded), net	\$ (310)	\$ 15,999

See notes to condensed consolidated financial statements.

CONN'S, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Summary of Significant Accounting Policies

Business. Conn's, Inc., a Delaware corporation, is a holding company with no independent assets or operations other than its investments in its subsidiaries. References to "we," "our," "us," "the Company," "Conn's" or "CONN" refer to Conn's, Inc. and, as apparent from the context, its subsidiaries. Conn's is a leading specialty retailer that offers a broad selection of quality, branded durable consumer goods and related services in addition to proprietary credit solutions for its core credit-constrained consumers. We operate an integrated and scalable business through our retail stores and website. Our complementary product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit offering provides financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives.

We operate two reportable segments: retail and credit. Our retail stores bear the "Conn's HomePlus" name with all of our stores providing the same products and services to a common customer group. Our stores follow the same procedures and methods in managing their operations. Our retail business and credit business are operated independently from each other. The credit segment is dedicated to providing short- and medium-term financing to our retail customers. The retail segment is not involved in credit approval decisions or collection efforts. Our management evaluates performance and allocates resources based on the operating results of the retail and credit segments.

Basis of Presentation. The accompanying unaudited Condensed Consolidated Financial Statements of Conn's, Inc. and its wholly-owned subsidiaries, including its Variable Interest Entities ("VIEs"), have been prepared by management in accordance with U.S. generally accepted accounting principles ("GAAP") and prevailing industry practice for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, we do not include all of the information and footnotes required by GAAP for complete financial statements. The accompanying financial statements reflect all adjustments that are, in the opinion of management, necessary for a fair presentation of the results for the interim periods presented. All such adjustments are of a normal recurring nature. The condensed consolidated financial position, results of operations and cash flows for these interim periods are not necessarily indicative of the results that may be expected in future periods. The balance sheet at January 31, 2020 has been derived from the audited financial statements at that date. The financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended January 31, 2020 (the "2020 Form 10-K") filed with the United States Securities and Exchange Commission (the "SEC") on April 14, 2020.

Fiscal Year. Our fiscal year ends on January 31. References to a fiscal year refer to the calendar year in which the fiscal year ends.

Principles of Consolidation. The Condensed Consolidated Financial Statements include the accounts of Conn's, Inc. and its wholly-owned subsidiaries. All material intercompany transactions and balances have been eliminated in consolidation.

Variable Interest Entities. VIEs are consolidated if the Company is the primary beneficiary. The primary beneficiary of a VIE is the party that has (i) the power to direct the activities that most significantly impact the performance of the VIE and (ii) the obligation to absorb losses or the right to receive benefits that could potentially be significant to the VIE.

We securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. We retain the servicing of the securitized portfolio and have a variable interest in each corresponding VIE by holding the residual equity. We have determined that we are the primary beneficiary of each respective VIE because (i) our servicing responsibilities for the securitized portfolio give us the power to direct the activities that most significantly impact the performance of the VIE and (ii) our variable interest in the VIE gives us the obligation to absorb losses and the right to receive residual returns that potentially could be significant. As a result, we consolidate the respective VIEs within our Condensed Consolidated Financial Statements.

Refer to Note 5, *Debt and Financing Lease Obligations*, and Note 7, *Variable Interest Entities*, for additional information.

Use of Estimates. The preparation of financial statements in accordance with GAAP requires management to make informed judgments and estimates that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities. Changes in facts and circumstances or additional information may result in revised estimates, and actual results may differ, even significantly, from these estimates. Management evaluates its estimates and related assumptions regularly, including those related to the allowance for doubtful accounts and allowances for no-interest option credit programs, which are particularly sensitive given the size of our customer portfolio balance.

Cash and Cash Equivalents. As of April 30, 2020 and January 31, 2020, cash and cash equivalents included cash and credit card deposits in transit. Credit card deposits in transit included in cash and cash equivalents were \$4.4 million and \$4.0 million as of April 30, 2020 and January 31, 2020, respectively.

CONN'S, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Restricted Cash. The restricted cash balance as of April 30, 2020 and January 31, 2020 includes \$57.6 million and \$59.7 million, respectively, of cash we collected as servicer on the securitized receivables that was subsequently remitted to the VIEs and \$13.9 million and \$13.9 million, respectively, of cash held by the VIEs as additional collateral for the asset-backed notes.

Customer Accounts Receivable. Customer accounts receivable reported in the Condensed Consolidated Balance Sheet includes total receivables managed, including both those transferred to the VIEs and those not transferred to the VIEs. Customer accounts receivable are recognized at the time the customer takes possession of the product. As discussed in more detail below, *Recent Accounting Pronouncements Adopted*, effective February 1, 2020 the Company adopted ASC 2016-13, *Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*. Under the newly adopted standard, expected lifetime losses on customer accounts receivable are recognized upon origination through an allowance for credit losses account that is deducted from the customer account receivable balance and presented net. Customer accounts receivable include the net of unamortized deferred fees charged to customers and origination costs. Customer receivables are considered delinquent if a payment has not been received on the scheduled due date. Accounts that are delinquent more than 209 days as of the end of a month are charged-off against the allowance for doubtful accounts along with interest accrued subsequent to the last payment.

In an effort to mitigate losses on our accounts receivable, we may make loan modifications to a borrower experiencing financial difficulty. In our role as servicer, we may also make modifications to loans held by the VIEs. The loan modifications are intended to maximize net cash flow after expenses and avoid the need to exercise legal remedies available to us. We may extend or “re-age” a portion of our customer accounts, which involves modifying the payment terms to defer a portion of the cash payments due. Our re-aging of customer accounts does not change the interest rate or the total principal amount due from the customer and typically does not reduce the monthly contractual payments. To a much lesser extent, we may provide the customer the ability to refinance their account, which typically does not change the interest rate or the total principal amount due from the customer but does reduce the monthly contractual payments and extend the term. We consider accounts that have been re-aged in excess of three months or refinanced as Troubled Debt Restructurings (“TDR” or “Restructured Accounts”).

On March 27, 2020 the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law to address the economic impact of the COVID-19 pandemic. Under the CARES Act, modifications deemed to be COVID-19 related are not considered a TDR if the loan was current (not more than 30 days past due as of March 31, 2020) and the deferral was executed between April 1, 2020 and the earlier of 60 days after the termination of the COVID-19 national emergency or December 31, 2020. In response to the CARES Act, the Company implemented two short-term deferral programs for our customers. The carrying value of the customer receivables on accounts which were current prior to receiving a COVID-19 related deferment was \$50.5 million as of April 30, 2020.

Interest Income on Customer Accounts Receivable. Interest income, which includes interest income and amortization of deferred fees and origination costs, is recorded using the interest method and is reflected in finance charges and other revenues. Typically, interest income is recorded until the customer account is paid off or charged-off and we provide an allowance for estimated uncollectible interest. We reserve for interest that is more than 60 days past due. Any contractual interest income received from customers in excess of the interest income calculated using the interest method is recorded as deferred revenue on our balance sheets. At April 30, 2020 and January 31, 2020, there was \$10.4 million and \$10.6 million, respectively, of deferred interest included in deferred revenues and other credits and other long-term liabilities. The deferred interest will ultimately be brought into income as the accounts pay off or charge-off.

We offer a 12-month no-interest option program. If the customer is delinquent in making a scheduled monthly payment or does not repay the principal in full by the end of the no-interest option program period (grace periods are provided), the account does not qualify for the no-interest provision and none of the interest earned is waived. Interest income is recognized based on estimated accrued interest earned to date on all no-interest option finance programs with an offsetting reserve for those customers expected to satisfy the requirements of the program based on our historical experience.

We recognize interest income on TDR accounts using the interest income method, which requires reporting interest income equal to the increase in the net carrying amount of the loan attributable to the passage of time. Cash proceeds and other adjustments are applied to the net carrying amount such that it equals the present value of expected future cash flows.

We place accounts in non-accrual status when legally required. Payments received on non-accrual loans are applied to principal and reduce the balance of the loan. At April 30, 2020 and January 31, 2020, the carrying value of customer accounts receivable in non-accrual status was \$14.8 million and \$12.5 million, respectively. At April 30, 2020 and January 31, 2020, the carrying value of customer accounts receivable that were past due 90 days or more and still accruing interest totaled \$153.3 million and \$132.7 million, respectively. At April 30, 2020 and January 31, 2020, the carrying value of customer accounts receivable in a bankruptcy status that were less than 60 days past due of \$11.4 million and \$12.1 million, respectively, were included within the customer receivables balance carried in non-accrual status.

Debt Issuance Costs. Costs that are direct and incremental to debt issuance are deferred and amortized to interest expense using the effective interest method over the expected life of the debt. All other costs related to debt issuance are expensed as incurred. We present debt issuance costs associated with long-term debt as a reduction of the carrying amount of the debt. Unamortized

CONN'S, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

costs related to the Revolving Credit Facility, as defined in Note 5, *Debt and Financing Lease Obligations*, are included in other assets on our Condensed Consolidated Balance Sheet and were \$3.2 million and \$3.5 million as of April 30, 2020 and January 31, 2020, respectively.

Income Taxes. For the three months ended April 30, 2020 and 2019, we utilized the estimated annual effective tax rate based on our estimated fiscal year 2021 and 2020 pre-tax income, respectively, in determining income tax expense.

Provision for income taxes for interim periods is based on an estimated annual income tax rate, adjusted for discrete tax items. As a result, our interim effective tax rates may vary significantly from the statutory tax rate and the annual effective tax rate.

For the three months ended April 30, 2020 and 2019, the effective tax rate was 27.2% and 20.4%, respectively. The primary factor affecting the increase in our effective tax rate for the three months ended April 30, 2020 was the impact of the tax loss carryback provisions of the CARES Act.

Stock-based Compensation. During the three months ended April 30, 2020, the Company granted performance stock awards ("PSUs") and restricted stock awards ("RSUs"). The awards had a combined aggregate grant date fair value of \$7.2 million. The PSUs will vest after the Company's fiscal year 2024, if at all, upon certification by the compensation committee of the satisfaction of certain total shareholder return conditions over the three fiscal years commencing with the Company's fiscal year 2021. The majority of the RSUs will vest, if at all, over periods of three to four years from the date of grant.

Stock-based compensation expense is recorded, net of estimated forfeitures, for share-based compensation awards over the requisite service period using the straight-line method. An adjustment is made to compensation cost for any difference between the estimated forfeitures and the actual forfeitures related to the awards. For equity-classified share-based compensation awards, expense is recognized based on the grant-date fair value. For equity-classified share-based compensation awards, expense is recognized based on the grant-date fair value. For stock option grants, we use the Black-Scholes model to determine fair value. For grants of restricted stock units, the fair value of the grant is the market value of our stock at the date of issuance. For grants of performance-based restricted stock units, the fair value is the market value of our stock at the date of issuance adjusted for the market condition using a Monte Carlo model.

The following table sets forth the RSUs and PSUs granted during the three months ended April 30, 2020 and 2019:

	Three Months Ended April 30,	
	2020	2019
RSUs ⁽¹⁾	520,421	3,429
PSUs ⁽²⁾	270,828	—
Total stock awards granted	791,249	3,429
Aggregate grant date fair value (in thousands)	\$ 7,207	\$ 71

(1) The majority of RSUs issued during the three months ended April 30, 2020 and 2019 are scheduled to vest ratably over periods of three to four years from the date of grant.

(2) The weighted-average assumptions used in the Monte Carlo model for the PSUs granted during the three months ended April 30, 2020 included expected volatility of 60.0%, an expected term of 3 years and risk-free interest rate of 1.42%. No dividend yield was included in the weighted-average assumptions for the PSUs granted during the three months ended April 30, 2020.

For the three months ended April 30, 2020 and 2019, stock-based compensation expense was \$2.4 million and \$3.2 million, respectively.

CONN'S, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Earnings (loss) per Share. Basic earnings (loss) per share for a particular period is calculated by dividing net income (loss) by the weighted-average number of common shares outstanding during the period. Diluted earnings per share includes the dilutive effects of any stock options, RSUs and PSUs, which are calculated using the treasury-stock method. The following table sets forth the shares outstanding for the earnings per share calculations:

<i>(in thousands)</i>	Three Months Ended April 30,	
	2020	2019
Weighted-average common shares outstanding - Basic	28,822,396	31,882,003
Dilutive effect of stock options, PSUs and RSUs	—	561,881
Weighted-average common shares outstanding - Diluted	28,822,396	32,443,884

For the three months ended April 30, 2020 and 2019, the weighted average number of stock options, RSUs and PSUs not included in the calculation due to their anti-dilutive effect, was 1,832,902 and 859,970, respectively.

Fair Value of Financial Instruments. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Assets and liabilities recorded at fair value are categorized using defined hierarchical levels related to subjectivity associated with the inputs to fair value measurements as follows:

- Level 1 – Inputs represent unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2 – Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly (for example, quoted market prices for similar assets or liabilities in active markets or quoted market prices for identical assets or liabilities in markets not considered to be active, inputs other than quoted prices that are observable for the asset or liability, or market-corroborated inputs).
- Level 3 – Inputs that are not observable from objective sources such as our internally developed assumptions used in pricing an asset or liability (for example, an estimate of future cash flows used in our internally developed present value of future cash flows model that underlies the fair-value measurement).

In determining fair value, we use observable market data when available, or models that incorporate observable market data. When we are required to measure fair value and there is not a market-observable price for the asset or liability or for a similar asset or liability, we use the cost or income approach depending on the quality of information available to support management's assumptions. The cost approach is based on management's best estimate of the current asset replacement cost. The income approach is based on management's best assumptions regarding expectations of future net cash flows and discounts the expected cash flows using a commensurate risk-adjusted discount rate. Such evaluations involve significant judgment, and the results are based on expected future events or conditions such as sales prices, economic and regulatory climates, and other factors, most of which are often outside of management's control. However, we believe assumptions used reflect a market participant's view of long-term prices, costs, and other factors and are consistent with assumptions used in our business plans and investment decisions.

In arriving at fair-value estimates, we use relevant observable inputs available for the valuation technique employed. If a fair-value measurement reflects inputs at multiple levels within the hierarchy, the fair-value measurement is characterized based on the lowest level of input that is significant to the fair-value measurement.

The fair value of cash and cash equivalents, restricted cash and accounts payable approximate their carrying amounts because of the short maturity of these instruments. The fair value of customer accounts receivable, determined using a Level 3 discounted cash flow analysis, approximates their carrying value, net of the allowance for doubtful accounts. The fair value of our Revolving Credit Facility approximates carrying value based on the current borrowing rate for similar types of borrowing arrangements. At April 30, 2020, the fair value of the Senior Notes outstanding, which was determined using Level 1 inputs, was \$155.6 million as compared to the carrying value of \$227.0 million, excluding the impact of the related discount. At April 30, 2020, the fair value of the asset backed notes was \$553.9 million as compared to the carrying value of \$611.5 million and was determined using Level 2 inputs based on inactive trading activity.

Deferred Revenue. Deferred revenue related to contracts with customers consists of deferred customer deposits and deferred RSA administration fees. During the three months ended April 30, 2020, we recognized \$1.2 million of revenue for customer deposits deferred as of January 31, 2020. During the three months ended April 30, 2020, we recognized \$1.1 million of revenue for RSA administrative fees deferred as of January 31, 2020.

Leases. In response to the COVID-19 pandemic, during the three months ended April 30, 2020, we began renegotiating our leases as a means of preserving liquidity. On April 10, 2020 the Financial Accounting Standards Board ("FASB") issued guidance for lease concessions entered into in response to the COVID-19 pandemic that allows lessees to make an election not to evaluate

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whether a lease concession provided by a lessor should be accounted for as a lease modification if it does not result in a substantial increase in the rights of the lessor or the obligations of the lessee. We have elected to apply this allowance to our COVID-19 lease concessions. As a result, for the three months ended April 30, 2020, there were no material modifications to our leases.

Recent Accounting Pronouncements Adopted. In June 2016, the FASB issued ASU 2016-13, *Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASC 326"). ASU 2016-13 replaces the incurred loss methodology with an expected loss methodology that is referred to as the current expected credit loss (CECL) methodology. Under the new guidance entities must reserve an allowance for expected credit losses over the life of the loan. The measurement of expected credit losses is applicable to financial assets measured at amortized cost. The allowance for credit losses is a valuation account that is deducted from the customer account receivable's amortized cost basis to present the net amount expected to be collected. Customer receivables are charged off against the allowance when management deems an account to be uncollectible. In April 2019, the FASB issued ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments - Credit Losses*. ASU 2019-04 requires that the current estimate of recoveries are included in the allowance for credit losses.

Effective February 1, 2020, the Company adopted ASU 2016-13 and ASU 2019-04 using the modified retrospective approach. The Company has reviewed its entire portfolio of assets recognized on the balance sheet as of January 31, 2020 and identified Customer Accounts Receivables as the materially impacted asset in-scope of ASC 326. The risk of credit losses from the remaining portfolio of assets was concluded to be immaterial. Upon adoption of ASC 326 the Company recorded a net decrease to retained earnings of \$76.5 million as of February 1, 2020. Results for reporting periods prior to February 1, 2020 are not adjusted and continue to be reported in accordance with the Company's historic accounting policies under previously applicable GAAP.

The allowance for credit losses is measured on a collective (pool) basis where similar risk characteristics exist. Upon adoption of ASC 326, the Company elected to maintain the pools of customer accounts receivable that were previously accounted for under ASC 310 (Non-TDR Non-Reaged, Non-TDR Reaged, and TDR). These pools were segmented based on shared risk attributes, which include the borrower's FICO score, product class, length of customer relationship and delinquency status. The allowance for credit losses was determined for each pool and added to the pool's carrying amount to establish a new amortized cost basis. Changes to the allowance for credit losses after adoption are recorded through provision expense.

We have elected to use a risk-based, pool-level segmentation framework to calculate the expected loss rate. This framework is based on our historical gross charge-off history. In addition to adjusted historical gross charge-off rates, estimates of post-charge-off recoveries, including cash payments from customers, sales tax recoveries from taxing jurisdictions, and payments received under credit insurance and repair service agreement ("RSA") policies are also considered. We also consider forward-looking economic forecasts based on a statistical analysis of economic factors (specifically, forecast of unemployment rates over the reasonable and supportable forecasting period). To the extent that situations and trends arise which are not captured in our model, management will layer on additional qualitative adjustments.

Pursuant to ASC 326 requirements, the Company has initially determined a 24-month reasonable and supportable forecast period for the Customer Accounts Receivable portfolio. We estimate losses beyond the 24-month forecast period based on historic loss rates experienced over the life of our historic loan portfolio by loan pool type. We will revisit our measurement methodology and assumption annually, or more frequently if circumstances warrant.

The cumulative effect of the changes made to the Company's Consolidated Balance Sheet as a result of the adoption of ASC 326 were as follows:

(in thousands)	Impact of Adoption of ASC 326		
	Balance at January 31, 2020	Adjustments due to ASC 326	Balance at February 1, 2020
<u>Assets</u>			
Customer accounts receivable	\$ 673,742	\$ (49,701)	\$ 624,041
Long-term portion of customer accounts receivable	663,761	(48,962)	614,799
Deferred Income Taxes	18,599	22,172	40,771
<u>Stockholders' Equity</u>			
Retained Earnings	\$ 570,636	\$ (76,491)	\$ 494,145

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Changes due to Securities and Exchange Commission Regulation S-X Rules 13-01 and 13-02. In March 2020, the Securities and Exchange Commission (“SEC”) amended Regulation S-X to create Rules 13-01 and 13-02. These new rules reduce and simplify financial disclosure requirements for issuers and guarantors of registered debt offerings. Previously, with limited exceptions, a parent entity was required to provide detailed disclosures with regard to guarantors of registered debt offerings within the footnotes to the consolidated financial statements. Under the new regulations, disclosure exceptions have been expanded and required disclosures may be provided within the Item 2. *Management’s Discussion and Analysis of Financial Condition and Results of Operations* rather than in the notes to the financial statements. Further, summarized guarantor balance sheet and income statements are permitted, with the requirement to provide guarantor cash flow statements eliminated. Summarized guarantor financial statements only need be disclosed for the current fiscal year rather than all years presented in the financial statements as was previously required. The guidance will become effective for filings on or after January 4, 2021, with early adoption permitted.

The Company has elected to early adopt the new regulations as of and for the three months ended April 30, 2020. Our summarized guarantor financial statements are now presented in Item 2. *Management’s Discussion and Analysis of Financial Condition and Results of Operations*.

2. Customer Accounts Receivable

Customer accounts receivable consisted of the following:

<i>(in thousands)</i>	April 30, 2020	January 31, 2020
Customer accounts receivable ⁽¹⁾	\$ 1,499,965	\$ 1,602,037
Deferred fees and origination costs, net	(14,950)	(15,746)
Allowance for no-interest option credit programs	(13,208)	(14,984)
Allowance for uncollectible interest	(29,305)	(23,662)
Carrying value of customer accounts receivable	1,442,502	1,547,645
Allowance for credit losses ⁽²⁾	(363,948)	(210,142)
Carrying value of customer accounts receivable, net of allowance for credit losses	1,078,554	1,337,503
Short-term portion of customer accounts receivable, net	(548,169)	(673,742)
Long-term customer accounts receivable, net	\$ 530,385	\$ 663,761

<i>(in thousands)</i>	Carrying Value	
	April 30, 2020	January 31, 2020
Customer accounts receivable 60+ days past due ⁽³⁾	\$ 192,501	\$ 193,797
Re-aged customer accounts receivable ⁽⁴⁾	465,820	455,704
Restructured customer accounts receivable ⁽⁵⁾	224,081	211,857

- (1) As of April 30, 2020 and January 31, 2020, the customer accounts receivable balance included \$42.5 million and \$43.7 million, respectively, in interest receivable. Net of the allowance for uncollectible interest, interest receivable outstanding as of April 30, 2020 and January 31, 2020 was \$13.2 million and \$20.0 million, respectively.
- (2) Our current methodology to estimate expected credit losses utilized macroeconomic forecasts as of April 30, 2020, which incorporated the estimated potential impact that the global outbreak COVID-19 may have on the U.S. economy. Our forecast utilized economic projections from a major rating service reflecting an increase in unemployment with some offsetting benefits related to the positive impacts of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). As a result, our allowance for loan loss increased \$65.5 million for the three months ended April 30, 2020. The allowance for credit losses as of January 31, 2020 is based on an incurred loss model, which reserves for expected credit losses over the next twelve months.
- (3) As of April 30, 2020 and January 31, 2020, the carrying value of customer accounts receivable past due one day or greater was \$441.0 million and \$527.0 million, respectively. These amounts include the 60+ days past due balances shown above.
- (4) The re-aged carrying value as of April 30, 2020 and January 31, 2020 includes \$123.7 million and \$131.4 million in carrying value that are both 60+ days past due and re-aged.
- (5) The restructured carrying value as of April 30, 2020 and January 31, 2020 includes \$63.2 million and \$64.8 million in carrying value that are both 60+ days past due and restructured.

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The allowance for credit losses included in the current and long-term portion of customer accounts receivable, net as shown in the Condensed Consolidated Balance Sheet were as follows:

<i>(in thousands)</i>	Three Months Ended April 30, 2020
Customer accounts receivable - current	\$ 752,960
Allowance for credit losses for customer accounts receivable - current	(204,791)
Customer accounts receivable, net of allowances	548,169
Customer accounts receivable - non current	718,847
Allowance for credit losses for customer accounts receivable - non current	(188,462)
Long-term portion of customer accounts receivable, net of allowances	530,385
Total customer accounts receivable, net	\$ 1,078,554

The following presents the activity in our allowance for credit losses and uncollectible interest for customer receivables:

<i>(in thousands)</i>	Three Months Ended April 30, 2020			Three Months Ended April 30, 2019		
	Customer Accounts Receivable	Restructured Accounts	Total	Customer Accounts Receivable	Restructured Accounts	Total
Allowance at beginning of period, prior to adoption of ASC 326	\$ 145,680	\$ 88,123	\$ 233,803	\$ 147,123	\$ 67,756	\$ 214,879
Impact of adoption ASC 326	95,136	3,526	98,662	—	—	—
Provision for credit loss expense ⁽¹⁾	109,065	28,224	137,289	35,275	16,925	52,200
Principal charge-offs ⁽²⁾	(46,351)	(18,501)	(64,852)	(39,723)	(14,809)	(54,532)
Interest charge-offs	(12,314)	(5,300)	(17,614)	(9,099)	(3,392)	(12,491)
Recoveries ⁽²⁾⁽³⁾⁽⁴⁾	3,988	1,977	5,965	4,714	1,757	6,471
Allowance at end of period	\$ 295,204	\$ 98,049	\$ 393,253	\$ 138,290	\$ 68,237	\$ 206,527
Average total customer portfolio balance	\$ 1,333,197	\$ 224,565	\$ 1,557,762	\$ 1,368,094	\$ 190,228	\$ 1,558,322

(1) Includes provision for uncollectible interest, which is included in finance charges and other revenues.

(2) Charge-offs include the principal amount of losses (excluding accrued and unpaid interest). For the three months ended April 30, 2019, recoveries include the principal amount collected during the period for previously charged-off balances. For the three months ended April 30, 2020, recoveries include the principal amount collected during the period for previously charged-off balances and changes in expected future recoveries. Net charge-offs are calculated as the net of principal charge-offs and recoveries.

(3) The increase in bad debt charge-offs, net of recoveries, was primarily due to higher risk loans originated during the first half of fiscal year 2020 and an increase in new customer mix.

(4) For periods prior to fiscal year 2021, recoveries only included the principal amount collected during the period for previously charged-off balances.

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We manage our Customer Accounts Receivable portfolio using delinquency as a key credit quality indicator. The following table presents the delinquency distribution of the carrying value of customer accounts receivable by year of origination. The information is updated as of April 30, 2020:

Delinquency Bucket	2020	2019	2018	2017	Prior	Total	% of Total
<i>(in thousands)</i>							
Current	\$ 209,196	\$ 520,586	\$ 220,700	\$ 48,025	\$ 3,041	\$ 1,001,548	69.5%
1-30	24,977	100,147	56,044	17,624	1,792	200,584	13.9%
31-60	7,036	21,169	13,854	5,123	687	47,869	3.3%
61-90	3,937	18,003	9,810	4,060	652	36,462	2.5%
91+	—	77,232	52,382	22,477	3,948	156,039	10.8%
Total	\$ 245,146	\$ 737,137	\$ 352,790	\$ 97,309	\$ 10,120	\$ 1,442,502	100.0%

3. Charges and Credits

Charges and credits consisted of the following:

<i>(in thousands)</i>	Three Months Ended April 30,	
	2020	2019
Professional fees	\$ 2,055	\$ —
Facility relocation costs	—	(695)
Total charges and credits	\$ 2,055	\$ (695)

During the three months ended April 30, 2020, we recognized \$2.1 million in professional fees associated with non-recurring expenses relating to fiscal year 2020. During the three months ended April 30, 2019, we recognized a \$0.7 million gain from increased sublease income related to the consolidation of our corporate headquarters.

4. Finance Charges and Other Revenues

Finance charges and other revenues consisted of the following:

<i>(in thousands)</i>	Three Months Ended April 30,	
	2020	2019
Interest income and fees	\$ 81,843	\$ 84,017
Insurance income	4,752	7,314
Other revenues	235	202
Total finance charges and other revenues	\$ 86,830	\$ 91,533

Interest income and fees and insurance income are derived from the credit segment operations, whereas other revenues are derived from the retail segment operations. Insurance income is comprised of sales commissions from third-party insurance companies that are recognized when coverage is sold and retrospective income paid by the insurance carrier if insurance claims are less than earned premiums.

During the three months ended April 30, 2020 and 2019, interest income and fees reflected provisions for uncollectible interest of \$20.1 million and \$12.3 million, respectively. The amounts included in interest income and fees related to TDR accounts for the three months ended April 30, 2020 and 2019 were \$9.5 million and \$8.1 million, respectively.

5. Debt and Financing Lease Obligations

Debt and financing lease obligations consisted of the following:

<i>(in thousands)</i>	April 30, 2020	January 31, 2020
Revolving Credit Facility	\$ 336,000	\$ 29,100
Senior Notes	227,000	227,000
2017-B VIE Asset-backed Class C Notes	35,421	59,655
2018-A VIE Asset-backed Class A Notes	23,016	34,112
2018-A VIE Asset-backed Class B Notes	13,880	20,572
2018-A VIE Asset-backed Class C Notes	13,880	20,572
2019-A VIE Asset-backed Class A Notes	46,906	76,241
2019-A VIE Asset-backed Class B Notes	60,239	64,750
2019-A VIE Asset-backed Class C Notes	58,155	62,510
2019-B VIE Asset-backed Class A Notes	191,191	265,810
2019-B VIE Asset-backed Class B Notes	85,540	85,540
2019-B VIE Asset-backed Class C Notes	83,270	83,270
Financing lease obligations	5,807	5,209
Total debt and financing lease obligations	1,180,305	1,034,341
Less:		
Discount on debt	(1,264)	(1,404)
Deferred debt issuance costs	(5,282)	(6,797)
Current maturities of long-term debt and financing lease obligations	(772)	(605)
Long-term debt and financing lease obligations	<u>\$ 1,172,987</u>	<u>\$ 1,025,535</u>

Senior Notes. On July 1, 2014, we issued \$250.0 million of unsecured Senior Notes due July 2022 bearing interest at 7.25% (the "Senior Notes"), pursuant to an indenture dated July 1, 2014 (as amended, the "Indenture"), among Conn's, Inc., its subsidiary guarantors (the "Guarantors") and U.S. Bank National Association, as trustee. The effective interest rate of the Senior Notes after giving effect to the discount and issuance costs is 7.8%.

The Indenture restricts the Company's and certain of its subsidiaries' ability to: (i) incur indebtedness; (ii) pay dividends or make other distributions in respect of, or repurchase or redeem, our capital stock ("restricted payments"); (iii) prepay, redeem or repurchase debt that is junior in right of payment to the notes; (iv) make loans and certain investments; (v) sell assets; (vi) incur liens; (vii) enter into transactions with affiliates; and (viii) consolidate, merge or sell all or substantially all of our assets. These covenants are subject to a number of important exceptions and qualifications. During any time when the Senior Notes are rated investment grade by either of Moody's Investors Service, Inc. or Standard & Poor's Ratings Services and no default (as defined in the Indenture) has occurred and is continuing, many of such covenants will be suspended and we will cease to be subject to such covenants during such period. As of April 30, 2020, \$162.0 million would have been free from the restricted payments covenant contained in the Indenture. Events of default under the Indenture include customary events, such as a cross-acceleration provision in the event that we fail to make payment of other indebtedness prior to the expiration of any applicable grace period or upon acceleration of indebtedness prior to its stated maturity date in an amount exceeding \$25.0 million, as well as in the event a judgment is entered against us in excess of \$25.0 million that is not discharged, bonded or insured.

Asset-backed Notes. From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. In turn, the VIEs issue asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by the VIEs.

Under the terms of the securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of issued notes, and then to us as the holder of non-issued notes, if any, and residual equity. We retain the servicing of the securitized portfolios and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables. In addition, we, rather than the VIEs, retain all credit insurance income together with certain recoveries related to credit insurance and RSAs on charge-offs of the securitized receivables, which are reflected as a reduction to net charge-offs on a consolidated basis.

The asset-backed notes were offered and sold to qualified institutional buyers pursuant to the exemptions from registration provided by Rule 144A under the Securities Act of 1933. If an event of default were to occur under the indenture that governs the respective

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asset-backed notes, the payment of the outstanding amounts may be accelerated, in which event the cash proceeds of the receivables that otherwise might be released to the residual equity holder would instead be directed entirely toward repayment of the asset-backed notes, or if the receivables are liquidated, all liquidation proceeds could be directed solely to repayment of the asset-backed notes as governed by the respective terms of the asset-backed notes. The holders of the asset-backed notes have no recourse to assets outside of the VIEs. Events of default include, but are not limited to, failure to make required payments on the asset-backed notes or specified bankruptcy-related events.

The asset-backed notes outstanding as of April 30, 2020 consisted of the following:

(dollars in thousands)

Asset-Backed Notes	Original Principal Amount	Original Net Proceeds ⁽¹⁾	Current Principal Amount	Issuance Date	Maturity Date	Contractual Interest Rate	Effective Interest Rate ⁽²⁾
2017-B Class C Notes	\$ 78,640	\$ 77,843	\$ 35,421	12/20/2017	11/15/2022	5.95%	6.44%
2018-A Class A Notes	219,200	217,832	23,016	8/15/2018	1/17/2023	3.25%	5.11%
2018-A Class B Notes	69,550	69,020	13,880	8/15/2018	1/17/2023	4.65%	5.26%
2018-A Class C Notes	69,550	68,850	13,880	8/15/2018	1/17/2023	6.02%	6.61%
2019-A Class A Notes	254,530	253,026	46,906	4/24/2019	10/16/2023	3.40%	4.85%
2019-A Class B Notes	64,750	64,276	60,239	4/24/2019	10/16/2023	4.36%	4.38%
2019-A Class C Notes	62,510	61,898	58,155	4/24/2019	10/16/2023	5.29%	5.09%
2019-B Class A Notes	317,150	315,417	191,191	11/26/2019	6/17/2024	2.66%	4.06%
2019-B Class B Notes	85,540	84,916	85,540	11/26/2019	6/17/2024	3.62%	3.98%
2019-B Class C Notes	83,270	82,456	83,270	11/26/2019	6/17/2024	4.60%	4.98%
Total	\$ 1,304,690	\$ 1,295,534	\$ 611,498				

(1) After giving effect to debt issuance costs.

(2) For the three months ended April 30, 2020, and inclusive of the impact of changes in timing of actual and expected cash flows.

Revolving Credit Facility. On May 23, 2018, Conn's, Inc. and certain of its subsidiaries (the "Borrowers") entered into the Fourth Amended and Restated Loan and Security Agreement (the "Fourth A&R Loan and Security Agreement"), with certain lenders, which provides for a \$650.0 million asset-based revolving credit facility (the "Revolving Credit Facility") under which credit availability is subject to a borrowing base and a maturity date of May 23, 2022.

Loans under the Revolving Credit Facility bore interest, at our option, at a rate equal to LIBOR plus the applicable margin ranging from 2.50% to 3.25% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 1.50% to 2.25% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate was the greatest of the prime rate, the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. We also pay an unused fee on the portion of the commitments that is available for future borrowings or letters of credit at a rate ranging from 0.25% to 0.50% per annum, depending on the average outstanding balance and letters of credit of the Revolving Credit Facility in the immediately preceding quarter. The weighted-average interest rate on borrowings outstanding and including unused line fees under the Revolving Credit Facility was 4.9% for the three months ended April 30, 2020.

The Revolving Credit Facility provides funding based on a borrowing base calculation that includes customer accounts receivable and inventory and provides for a \$40.0 million sub-facility for letters of credit to support obligations incurred in the ordinary course of business. The obligations under the Revolving Credit Facility are secured by substantially all assets of the Company, excluding the assets of the VIEs. As of April 30, 2020, we had immediately available borrowing capacity of \$151.7 million under our Revolving Credit Facility, net of standby letters of credit issued of \$2.5 million. We also had \$159.8 million that could have become available under our Revolving Credit Facility were we to grow the balance of eligible customer receivables and total eligible inventory balances. On March 18, 2020, the Company completed the borrowing of an additional \$275.0 million under its \$650.0 million Revolving Credit Facility, maturing in May 23, 2022, as a precautionary measure to increase its cash position and maintain financial flexibility in response to the COVID-19 pandemic.

On June 5, 2020 we entered into the Third Amendment to our Revolving Credit Facility (the "Third Amendment"). Under the Third amendment, loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate announced by Bank of America, N.A., the federal funds rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%.

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The Revolving Credit Facility places restrictions on our ability to incur additional indebtedness, grant liens on assets, make distributions on equity interests, dispose of assets, make loans, pay other indebtedness, engage in mergers, and other matters. The Revolving Credit Facility restricts our ability to make dividends and distributions unless no event of default exists and a liquidity test is satisfied. Subsidiaries of the Company may pay dividends and make distributions to the Company and other obligors under the Revolving Credit Facility without restriction. We are restricted from making distributions, including repayments of the Senior Notes or other distributions, as a result of the Revolving Credit Facility distribution and payment restrictions. The Revolving Credit Facility contains customary default provisions, which, if triggered, could result in acceleration of all amounts outstanding under the Revolving Credit Facility.

Debt Covenants. On June 5, 2020 we entered into the Third Amendment, which waived the interest coverage covenants beginning with the first quarter of fiscal year 2021 and continuing until the date on which the Company delivers financial statements and a compliance certificate for the fourth quarter of fiscal year 2021. See Note 9, *Subsequent Events*, for further details. After giving effect to the foregoing amendment, as of April 30, 2020, we were in compliance with the covenants in our Revolving Credit Facility. If we were to breach certain covenants under our Revolving Credit Facility in the future, that breach might trigger a default under our Revolving Credit Facility, which, if not remedied, would require a waiver from the lenders under our Revolving Credit Facility or an amendment to our Revolving Credit Facility in order for us to avoid an event of default. There can be no assurances that, in the event of such a covenant breach, we would be able to obtain the necessary waivers or amendments to remain in compliance with the covenants in our Revolving Credit Facility.

A summary of the significant financial covenants that govern our Revolving Credit Facility, as amended, compared to our actual compliance status at April 30, 2020 is presented below:

	Actual	Required Minimum/ Maximum
Interest Coverage Ratio for the quarter must equal or exceed minimum	Not Tested	1.00:1.00
Interest Coverage Ratio for the trailing two quarters must equal or exceed minimum	Not Tested	1.50:1.00
Leverage Ratio must not exceed maximum	2.31:1.00	4.00:1.00
ABS Excluded Leverage Ratio must not exceed maximum	1.20:1.00	2.00:1.00
Capital Expenditures, net, must not exceed maximum	\$35.3 million	\$100.0 million

All capitalized terms in the above table are defined in the Revolving Credit Facility and may or may not match directly to the financial statement captions in this document. The covenants are calculated quarterly, except for capital expenditures, which is calculated for a period of four consecutive fiscal quarters, as of the end of each fiscal quarter.

6. Contingencies

Securities Litigation. On May 15, 2020, a putative securities class action lawsuit was filed against us and two of our executive officers in the United States District Court for the Southern District of Texas, captioned *Uddin v. Conn's, Inc., et al.*, No. 4:20-1705 ("Uddin Action"). The plaintiff alleges that the defendants made false and misleading statements or failed to disclose material adverse facts about our business and operations. Plaintiff alleges violations of sections 10(b) and 20(a) of the Securities and Exchange Act of 1934 and Rule 10b-5 promulgated thereunder and seeks to certify a class of all persons and entities that purchased or acquired Conn's securities between September 3, 2019 and December 9, 2019. The complaint does not specify the amount of damages sought.

We intend to vigorously defend our interests in the Uddin Action. It is not possible at this time to predict the timing or outcome of this litigation, and we cannot reasonably estimate the possible loss or range of possible loss from these claims.

On April 2, 2018, MicroCapital Fund, LP, MicroCapital Fund, Ltd., and MicroCapital LLC (collectively, "MicroCapital") filed a lawsuit against us and certain of our former executive officers in the U.S. District Court for the Southern District of Texas, Cause No. 4:18-CV-01020 (the "MicroCapital Action"). The plaintiffs in this action allege that the defendants made false and misleading statements or failed to disclose material facts about our credit and underwriting practices, accounting and internal controls. Plaintiffs allege violations of sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, Texas and Connecticut common law fraud, and Texas common law negligent misrepresentation against all defendants; as well as violations of section 20A of the Securities Exchange Act of 1934; and Connecticut common law negligent misrepresentation against certain defendants arising from plaintiffs' purchase of Conn's, Inc. securities between April 3, 2013 and February 20, 2014. The complaint does not specify the amount of damages sought.

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The Court previously stayed the MicroCapital Action pending resolution of other outstanding litigation (In re Conn's Inc. Sec. Litig., Cause No. 14-CV-00548 (S.D. Tex.) (the "Consolidated Securities Action")), which was settled in October 2018. After that settlement, the stay was lifted, and the defendants filed a motion to dismiss plaintiff's complaint in the MicroCapital Action on November 6, 2018. Briefing on the motion to dismiss was completed on January 16, 2019. On July 26, 2019, the magistrate judge to which defendants' motion to dismiss had been assigned issued a report and recommendation, recommending that defendants' motion to dismiss the complaint be granted in part and denied in part. Both parties filed timely objections to that report and recommendation on August 9, 2019. On September 25, 2019, the district court adopted the magistrate judge's report and recommendation, which permitted MicroCapital to file an amended complaint, which MicroCapital filed on October 30, 2019. On November 8, 2019, the parties filed a joint discovery and case management plan, proposing various deadlines. Defendants filed their answer to the amended complaint on November 27, 2019. The parties are currently engaging in discovery.

We intend to vigorously defend our interests in the MicroCapital Action. It is not possible at this time to predict the timing or outcome of this litigation, and we cannot reasonably estimate the possible loss or range of possible loss from these claims.

Derivative Litigation. On December 1, 2014, an alleged shareholder, purportedly on behalf of the Company, filed a derivative shareholder lawsuit against us and certain of our current and former directors and former executive officers in the U.S. District Court for the Southern District of Texas, captioned as Robert Hack, derivatively on behalf of Conn's, Inc., v. Theodore M. Wright (former executive officer and former director), Bob L. Martin, Jon E.M. Jacoby (former director), Kelly M. Malson, Douglas H. Martin, David Schofman, Scott L. Thompson (former director), Brian Taylor (former executive officer) and Michael J. Poppe (former executive officer) and Conn's, Inc., Case No. 4:14-cv-03442 (the "Original Derivative Action"). The complaint asserts claims for breach of fiduciary duty, unjust enrichment, gross mismanagement, and insider trading based on substantially similar factual allegations as those asserted in the Consolidated Securities Action. The plaintiff seeks unspecified damages against these persons and does not request any damages from Conn's. Setting forth substantially similar claims against the same defendants, on February 25, 2015, an additional federal derivative action, captioned 95250 Canada LTEE, derivatively on Behalf of Conn's, Inc. v. Wright et al., Cause No. 4:15-cv-00521, was filed in the U.S. District Court for the Southern District of Texas, which has been consolidated with the Original Derivative Action.

The Court previously approved a stipulation among the parties to stay the Original Derivative Action pending resolution of the Consolidated Securities Action. The stay was lifted on November 1, 2018, and the defendants filed a motion to dismiss plaintiff's complaint. Briefing on the motion to dismiss was completed December 3, 2018, and the parties began engaging in discovery. On May 29, 2019, the magistrate judge, to which defendants' motion to dismiss had been assigned, issued a report and recommendation, recommending that defendants' motion to dismiss the complaint be granted, but recommended that the plaintiff be permitted to replead his claims. The district court adopted the recommendation on July 5, 2019.

On July 19, 2019, plaintiff filed an amended complaint. On August 13, 2019, the magistrate judge issued a new scheduling order, which permitted defendants to file a motion to dismiss the amended complaint on demand-futility grounds. That briefing was completed on October 15, 2019. On November 1, 2019, the magistrate judge heard argument on the motion to dismiss and postponed certain deadlines. On February 7, 2020, the judge issued a new scheduling order, again postponing deadlines and removing a trial date from the schedule. As ordered by the court, the parties have been engaging in discovery while the motion to dismiss has been pending.

Another derivative action was filed on January 27, 2015, captioned as Richard A. Dohn v. Wright, et al., Cause No. 2015-04405, in the 281st Judicial District Court, Harris County, Texas. This action makes substantially similar allegations to the Original Derivative Action against the same defendants. Conn's received a copy of the proposed amended petition on October 12, 2018, but the proposed amended petition has not yet been filed. The parties jointly requested a stay on this case pending resolution of the Original Derivative Action. This case remains stayed until at least June 19, 2020.

Prior to filing a lawsuit, an alleged shareholder, Robert J. Casey II ("Casey"), submitted a demand under Delaware law, which our Board of Directors refused. On May 19, 2016, Casey, purportedly on behalf of the Company, filed a lawsuit against us and certain of our current and former directors and former executive officers in the 55th Judicial District Court, Harris County, Texas, captioned as Casey, derivatively on behalf of Conn's, Inc., v. Theodore M. Wright (former executive officer and former director), Michael J. Poppe (former executive officer), Brian Taylor (former executive officer), Bob L. Martin, Jon E.M. Jacoby (former director), Kelly M. Malson, Douglas H. Martin, David Schofman, Scott L. Thompson (former director) and William E. Saunders Jr., and Conn's, Inc., Cause No. 2016-33135. The complaint asserts claims for breach of fiduciary duties and unjust enrichment based on substantially similar factual allegations as those asserted in the Original Derivative Action. The complaint does not specify the amount of damages sought. Since April 2018, no material activity has occurred in this case, as it has been abated pending the resolution of related cases.

Other than Casey, none of the plaintiffs in the other derivative actions made a demand on our Board of Directors prior to filing their respective lawsuits. The defendants in the derivative actions intend to vigorously defend against these claims. It is not possible at this time to predict the timing or outcome of any of this litigation, and we cannot reasonably estimate the possible loss or range of possible loss from these claims.

We are involved in other routine litigation and claims, incidental to our business from time to time which, individually or in the aggregate, are not expected to have a material adverse effect on us. As required, we accrue estimates of the probable costs for the resolution of these matters. These estimates have been developed in consultation with counsel and are based upon an analysis of potential results, assuming a combination of litigation and settlement strategies. However, the results of these proceedings cannot be predicted with certainty, and changes in facts and circumstances could impact our estimate of reserves for litigation. The Company believes that any probable and reasonably estimable loss associated with the foregoing has been adequately reflected in the accompanying financial statements.

7. Variable Interest Entities

From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. Under the terms of the respective securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of the asset-backed notes, and then to the residual equity holder. We retain the servicing of the securitized portfolio and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables, and we currently hold all of the residual equity. In addition, we, rather than the VIEs, will retain certain credit insurance income together with certain recoveries related to credit insurance and RSAs on charge-offs of the securitized receivables, which will continue to be reflected as a reduction of net charge-offs on a consolidated basis for as long as we consolidate the VIEs.

We consolidate VIEs when we determine that we are the primary beneficiary of these VIEs, we have the power to direct the activities that most significantly impact the performance of the VIEs and our obligation to absorb losses and the right to receive residual returns are significant.

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The following table presents the assets and liabilities held by the VIEs (for legal purposes, the assets and liabilities of the VIEs will remain distinct from Conn's, Inc.):

<i>(in thousands)</i>	April 30, 2020	January 31, 2020
Assets:		
Restricted cash	\$ 71,188	\$ 73,214
Due from Conn's, Inc., net	11,861	307
Customer accounts receivable:		
Customer accounts receivable	622,697	838,210
Restructured accounts	162,537	147,971
Allowance for uncollectible accounts	(230,707)	(151,263)
Allowance for no-interest option credit programs	(8,350)	(12,445)
Deferred fees and origination costs	(5,834)	(8,255)
Total customer accounts receivable, net	540,343	814,218
Total assets	\$ 623,392	\$ 887,739
Liabilities:		
Accrued expenses	\$ 4,524	\$ 5,517
Other liabilities	7,584	7,584
Long-term debt:		
2017-B Class C Notes	35,421	59,655
2018-A Class A Notes	23,016	34,112
2018-A Class B Notes	13,880	20,572
2018-A Class C Notes	13,880	20,572
2019-A Class A Notes	46,906	76,241
2019-A Class B Notes	60,239	64,750
2019-A Class C Notes	58,155	62,510
2019-B Class A Notes	191,191	265,810
2019-B Class B Notes	85,540	85,540
2019-B Class C Notes	83,270	83,270
	611,498	773,032
Less: deferred debt issuance costs	(3,578)	(4,911)
Total debt	\$ 607,920	\$ 768,121
Total liabilities	\$ 620,028	\$ 781,222

The assets of the VIEs serve as collateral for the obligations of the VIEs. The holders of asset-backed notes have no recourse to assets outside of the respective VIEs.

8. Segment Information

Operating segments are defined as components of an enterprise that engage in business activities and for which discrete financial information is available that is evaluated on a regular basis by the chief operating decision maker to make decisions about how to allocate resources and assess performance. We are a leading specialty retailer and offer a broad selection of quality, branded durable consumer goods and related services in addition to a proprietary credit solution for our core credit-constrained consumers. We have two operating segments: (i) retail and (ii) credit. Our operating segments complement one another. The retail segment operates primarily through our stores and website. Our retail segment product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit segment offers affordable financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives. Our operating segments provide customers the opportunity to comparison shop across brands with confidence in our competitive prices as well as affordable monthly payment options, next day delivery and installation in the majority of our markets, and product repair service. The operating segments follow the same accounting policies used in our Condensed Consolidated Financial Statements.

We evaluate a segment's performance based upon operating income before taxes. Selling, general and administrative expenses ("SG&A") includes the direct expenses of the retail and credit operations, allocated overhead expenses, and a charge to the credit segment to reimburse the retail segment for expenses it incurs related to occupancy, personnel, advertising and other direct costs of the retail segment, which benefit the credit operations by sourcing credit customers and collecting payments. The reimbursement received by the retail segment from the credit segment is calculated using an annual rate of 2.5% times the average outstanding portfolio balance for each applicable period.

As of April 30, 2020, we operated retail stores in 14 states with no operations outside of the United States. No single customer accounts for more than 10% of our total revenues.

CONN'S, INC. AND SUBSIDIARIES
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Financial information by segment is presented in the following tables:

<i>(in thousands)</i>	Three Months Ended April 30, 2020			Three Months Ended April 30, 2019		
	Retail	Credit	Total	Retail	Credit	Total
Revenues:						
Furniture and mattress	\$ 68,893	\$ —	\$ 68,893	\$ 88,364	\$ —	\$ 88,364
Home appliance	81,285	—	81,285	77,290	—	77,290
Consumer electronics	35,776	—	35,776	49,649	—	49,649
Home office	17,366	—	17,366	15,706	—	15,706
Other	3,878	—	3,878	3,436	—	3,436
Product sales	207,198	—	207,198	234,445	—	234,445
Repair service agreement commissions	20,101	—	20,101	24,024	—	24,024
Service revenues	3,031	—	3,031	3,510	—	3,510
Total net sales	230,330	—	230,330	261,979	—	261,979
Finance charges and other revenues	235	86,595	86,830	202	91,331	91,533
Total revenues	230,565	86,595	317,160	262,181	91,331	353,512
Costs and expenses:						
Cost of goods sold	147,014	—	147,014	157,228	—	157,228
Selling, general and administrative expense ⁽¹⁾	78,174	34,833	113,007	79,622	38,292	117,914
Provision for bad debts	168	117,158	117,326	129	39,917	40,046
Charges and credits	—	2,055	2,055	(695)	—	(695)
Total costs and expenses	225,356	154,046	379,402	236,284	78,209	314,493
Operating income (loss)	5,209	(67,451)	(62,242)	25,897	13,122	39,019
Interest expense	—	14,993	14,993	—	14,497	14,497
Income (loss) before income taxes	\$ 5,209	\$ (82,444)	\$ (77,235)	\$ 25,897	\$ (1,375)	\$ 24,522
	April 30, 2020			April 30, 2019		
<i>(in thousands)</i>	Retail	Credit	Total	Retail	Credit	Total
Total assets	\$ 607,210	\$ 1,630,076	\$ 2,237,286	\$ 613,117	\$ 1,477,167	\$ 2,090,284

(1) For the three months ended April 30, 2020 and 2019, the amount of corporate overhead allocated to each segment reflected in SG&A was \$7.3 million and \$7.9 million, respectively. For the three months ended April 30, 2020 and 2019, the amount of reimbursement made to the retail segment by the credit segment was \$9.8 million and \$9.7 million, respectively.

9. Subsequent Event

Revolving Credit Facility Amendment. On June 5, 2020, the Company and the lenders entered into a Third Amendment (the "Third Amendment") to the Fourth Amended and Restated Loan and Security Agreement, dated as of October 30, 2015, by and among the Company, as parent and guarantor, Conn Appliances, Inc., Conn Credit I, LP and Conn Credit Corporation, Inc., as borrowers, certain banks and financial institutions named therein, as lenders, and JPMorgan Chase Bank, N.A., as Administrative Agent for the Lenders. The Third Amendment, among other things, (1) waived the two interest coverage covenants for the period ended on April 30, 2020 and for subsequent periods through the date on which the Company delivers financial statements and a compliance certificate for the quarter ended January 31, 2021 (or such earlier date as the borrowers may elect to terminate such relief period upon 10 business days prior written notice, the "*Covenant Relief Period*"), with such covenant compliance to resume with respect to the quarter ended April 30, 2021 at the ratios set prior to the effectiveness of the Third Amendment; (2) added a minimum liquidity covenant of \$125.0 million at any time during the Covenant Relief Period; (3) increased the ABS excluded maximum leverage ratio financial covenant to 2.50x measured quarterly (previously 2.00x); (4) increased the maximum leverage ratio financial covenant, including securitizations, to 4.50x measured quarterly (previously 4.00x); (5) added a minimum availability covenant requiring at any time during the Covenant Relief Period that the borrowers maintain availability under the revolver equal to the greater of (a) 25% of the lesser of (i) the borrowing base and (ii) the revolver commitments and (b) \$75.0 million; (6) changed the rates included in the definition of Applicable Margin (as defined in the Fourth A&R Loan and Security Agreement) and the rate floor included in the definition of LIBOR contained in the Fourth A&R Loan and Security Agreement; (7) added an anti-cash hoarding covenant to require the Company and borrowers to use unrestricted cash and cash equivalents in excess of \$100.0 million to prepay outstanding revolving loans under the Fourth A&R Loan and Security Agreement (if any); (8) included temporary restrictions, applicable only during the Covenant Relief Period, prohibiting the borrowers from, among other things, (a) making acquisitions and certain other investments, (b) making certain non-ordinary course restricted payments and (c) prepaying certain indebtedness; and (9) added a new \$50.0 million basket under the restricted investments covenant to allow the borrowers to make investments in the Securitization Subsidiaries (as defined in the Fourth A&R Loan and Security Agreement).

The foregoing description of the Third Amendment does not purport to be complete and is qualified in its entirety by the full text of the Third Amendment, which is filed with this Quarterly Report on Form 10-Q as Exhibit 10.1, which is incorporated by reference herein.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward-Looking Statements

This report contains forward-looking statements within the meaning of the federal securities laws, including, but not limited to, the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. Such forward-looking statements include information concerning our future financial performance, business strategy, plans, goals and objectives. Statements containing the words "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "plan," "project," "should," "predict," "will," "potential," or the negative of such terms or other similar expressions are generally forward-looking in nature and not historical facts. Such forward-looking statements are based on our current expectations. We can give no assurance that such statements will prove to be correct, and actual results may differ materially. A wide variety of potential risks, uncertainties, and other factors could materially affect our ability to achieve the results either expressed or implied by our forward-looking statements including, but not limited to: general economic conditions impacting our customers or potential customers; our ability to execute periodic securitizations of future originated customer loans on favorable terms; our ability to continue existing customer financing programs or to offer new customer financing programs; changes in the delinquency status of our credit portfolio; unfavorable developments in ongoing litigation; increased regulatory oversight; higher than anticipated net charge-offs in the credit portfolio; the success of our planned opening of new stores; technological and market developments and sales trends for our major product offerings; our ability to manage effectively the selection of our major product offerings; our ability to protect against cyber-attacks or data security breaches and to protect the integrity and security of individually identifiable data of our customers and employees; our ability to fund our operations, capital expenditures, debt repayment and expansion from cash flows from operations, borrowings from our Revolving Credit Facility, proceeds from accessing debt or equity markets; the effects of epidemics or pandemics, including the COVID-19 outbreak; the impact of the restatement and correction of the Company's previously issued financial statements; the identified weakness in the Company's internal control over financial reporting and the Company's ability to remediate that material weakness; the initiation of legal or regulatory proceedings with respect to the restatement and corrections; the adverse effects on the Company's business, results of operations, financial condition and stock price as a result of the restatement and correction process; and other risks detailed in Part I, Item 1A, Risk Factors, in our Annual Report on Form 10-K for the fiscal year ended January 31, 2020 (the "2020 Form 10-K") and other reports filed with the SEC. If one or more of these or other risks or uncertainties materialize (or the consequences of such a development changes), or should our underlying assumptions prove incorrect, actual outcomes may vary materially from those reflected in our forward-looking statements. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. We disclaim any intention or obligation to update publicly or revise such statements, whether as a result of new information, future events or otherwise, or to provide periodic updates or guidance. All forward-looking statements attributable to us, or to persons acting on our behalf, are expressly qualified in their entirety by these cautionary statements.

The Company makes available in the investor relations section of its website at ir.conns.com updated monthly reports to the holders of its asset-backed notes. This information reflects the performance of the securitized portfolio only, in contrast to the financial statements contained herein, which reflect the performance of all of the Company's outstanding receivables, including those originated subsequent to those included in the securitized portfolio. The website and the information contained on our website is not incorporated in this Quarterly Report on Form 10-Q or any other document filed with the SEC.

Overview

We encourage you to read this Management's Discussion and Analysis of Financial Condition and Results of Operations in conjunction with the accompanying Condensed Consolidated Financial Statements and related notes. Our fiscal year ends on January 31. References to a fiscal year refer to the calendar year in which the fiscal year ends.

Executive Summary

Total revenues were \$317.2 million for the three months ended April 30, 2020 compared to \$353.5 million for the three months ended April 30, 2019, a decrease of \$36.3 million or 10.3%. Retail revenues were \$230.6 million for the three months ended April 30, 2020 compared to \$262.2 million for the three months ended April 30, 2019, a decrease of \$31.6 million or 12.1%. The decrease in retail revenue was primarily driven by a decrease in same store sales of 17.6%, partially offset by new store growth. The decrease in same store sales reflects more stringent underwriting standards, reductions in store hours, state mandated stay-at-home orders and lower sales of discretionary categories as a result of the COVID-19 pandemic. Credit revenues were \$86.6 million for the three months ended April 30, 2020 compared to \$91.3 million for the three months ended April 30, 2019, a decrease of \$4.7 million or 5.1%. The decrease in credit revenue was primarily due to higher charge offs and a decrease in insurance retrospective income, partially offset by higher blended weighted average rates across the customer accounts receivable portfolio.

Retail gross margin for the three months ended April 30, 2020 was 36.2%, a decrease of 380 basis points from the 40.0% reported for the three months ended April 30, 2019. The year-over-year decrease in retail gross margin was primarily driven by the impact of fixed logistics costs on lower sales, a decrease in retrospective income on RSA commissions and higher sales of lower margin products.

Selling, general and administrative expense (“SG&A”) for the three months ended April 30, 2020 was \$113.0 million compared to \$117.9 million for the three months ended April 30, 2019, a decrease of \$4.9 million or 4.2%. The SG&A decrease in the retail segment was primarily due to decreased advertising costs and labor costs, partially offset by increased occupancy costs. The SG&A decrease in the credit segment was primarily due to a decrease in labor costs, general operating expenses and legal costs.

Provision for bad debts increased to \$117.3 million for the three months ended April 30, 2020 from \$40.0 million for the three months ended April 30, 2019, an increase of \$77.3 million. The year-over-year increase was primarily driven by an increase in the allowance for bad debts of \$65.5 million due to an increase in forecasted unemployment rates stemming from the COVID-19 pandemic and an increase in charge-offs of \$10.8 million.

Interest expense was \$15.0 million for the three months ended April 30, 2020 and \$14.5 million for the three months ended April 30, 2019, an increase of \$0.5 million or 3.4%. The increase was driven by a higher average outstanding balance of debt, partially offset by a lower effective interest rate.

Net loss for the three months ended April 30, 2020 was \$56.2 million or \$1.95 per diluted share, compared to net income of \$19.5 million, or \$0.60 per diluted share, for the three months ended April 30, 2019.

How We Evaluate Our Operations

Management focuses on certain key indicators to monitor our performance including:

- **Same store sales** - Our management considers same store sales, which consists of both brick and mortar and eCommerce sales, to be an important indicator of our performance because they are important to our attempts to leverage our SG&A costs, which include rent and other store expenses, and they have a direct impact on our total net sales, net income, cash and working capital. Same store sales is calculated by comparing the reported sales for all stores that were open during both comparative fiscal years, starting in the first period in which the store has been open for a full quarter. Sales from closed stores, if any, are removed from each period. Sales from relocated stores have been included in each period as each such store was relocated within the same general geographic market. Sales from expanded stores have also been included in each period.
- **Retail gross margin** - Our management views retail gross margin as a key indicator of our performance because it reflects our pricing power relative to the prices we pay for our products. Retail gross margin is calculated by comparing retail total net sales to the cost of goods sold.
- **60+ Day Delinquencies** - Our management views customer account delinquencies as a key indicator of our performance because it is a reflection of the quality of our credit portfolio, it drives future credit performance and credit offerings, and it impacts the interest rates we pay on our asset-backed securitizations. Delinquencies are measured as the percentage of balances that are 60+ days past due.
- **Net yield** - Our management considers yield to be a key performance metric because it drives future credit decisions and credit offerings and directly impacts our net income. Yield reflects the amount of interest we receive from our portfolio.

Outlook

Our business and industry continue to be impacted by the COVID-19 outbreak in the United States. We are generally classified as an essential business by the government authorities in the jurisdictions in which we operate as we provide essential goods and services to our communities. As a result, despite widespread stay-at-home orders, most of our stores remained open, during the first quarter of fiscal year 2021, though operating on reduced schedules as mandated during the COVID-19 pandemic. As of June 9, 2020, all of our stores are open and have resumed regular in-store shopping hours. In addition, during the three months ended April 30, 2020 we enacted the following key actions:

- **Supported Customers and Employees:** As an essential business, we have maintained store operations throughout the COVID-19 pandemic through a mix of modified operating hours and enhanced employee programs, including temporarily increasing hourly wages by \$2 per hour to support our front-line employees and implementing a work from home program for our corporate teams, so that we may continue to assist our customers get the goods they need to shelter-in-place. In addition, we have implemented payment deferral programs to provide relief to credit customers who were economically impacted by COVID-19.
- **Strengthened our Capital and Liquidity Positions:** As a precautionary measure to increase our cash position and maintain financial flexibility, we borrowed \$275 million of cash from our revolving credit facility in March 2020. Due to this proactive measure our cash on balance sheet as of April 30, 2020 was \$287.3 million with immediately available borrowing capacity of \$151.7 million. As our need for cash has abated with the reopening of the economy and in order to ensure compliance with our covenants under our Revolving Credit Facility, we paid down the borrowings on June 5, 2020, and entered into the Third Amendment. See Note 9, *Subsequent Events*, of the Condensed Consolidated Financial Statements in Part I, Item 1, of this quarterly report on Form 10-Q for further details regarding the Third Amendment.

Further, we delayed or eliminated uncommitted capital expenditures, including reducing the number of planned showroom openings in fiscal year 2021 from 16 to 18 to 6 to 8 and delaying the opening of showrooms associated with our planned future expansion.

- **Tightened Underwriting Standards:** We implemented a series of underwriting changes beginning in March 2020 to control delinquencies and charge-offs. These changes included reducing originations of higher risk applicants, selectively increasing down payments and lowering credit limits.

The broad appeal of our value proposition to our geographically diverse core demographic, the unit economics of our business and the current retail real estate market should provide the stability necessary to maintain our business until we can return to normal operations. Further, as states re-open and the COVID-19 outbreak is contained, we expect our brand recognition and long history in our core markets to give us the opportunity to further penetrate our existing footprint, particularly as we leverage existing marketing spend, logistics infrastructure, and service footprint. There are also many markets in the U.S. with demographic characteristics similar to those in our existing footprint, which provides substantial opportunities for future growth. We plan to improve our operating results by leveraging our existing infrastructure and seeking to continually optimize the efficiency of our marketing, merchandising, distribution and credit operations. As we expand in existing markets and penetrate new markets, we expect to increase our purchase volumes, achieve distribution efficiencies and strengthen our relationships with our key vendors. Over time, we also expect our increased store base and higher net sales to further leverage our existing corporate and regional infrastructure.

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)

In response to the global impacts of COVID-19 on U.S. companies and citizens, the government enacted the CARES Act on March 27, 2020. We believe a significant portion of our Conn’s customers have received stimulus payments and/or federally supplemented unemployment payments, pursuant to the CARES Act, which have enabled them to continue making the payments they owe us under their financing agreements, despite the economically challenging times resulting from the COVID-19 pandemic. However, we do not know for certain which customers have received such payments and we cannot be certain whether those customers that have received such payments will use them to make payments to us or be in a position to continue making payments to us once they have fully utilized any applicable CARES Act benefits. It is possible that many of our customers will experience unemployment or other economic challenges arising from the COVID-19 pandemic well past the full utilization, and/or expiration, of any applicable CARES Act stimulus and unemployment benefits, and any related state benefits, which could result in a reduction in the portion of our customers who continue making payments owed to us under their financing agreements.

Results of Operations

The following tables present certain financial and other information, on a condensed consolidated basis:

<i>Consolidated:</i> (in thousands)	Three Months Ended April 30,		
	2020	2019	Change
Revenues:			
Total net sales	\$ 230,330	\$ 261,979	\$ (31,649)
Finance charges and other revenues	86,830	91,533	(4,703)
Total revenues	317,160	353,512	(36,352)
Costs and expenses:			
Cost of goods sold	147,014	157,228	(10,214)
Selling, general and administrative expense	113,007	117,914	(4,907)
Provision for bad debts	117,326	40,046	77,280
Charges and credits	2,055	(695)	2,750
Total costs and expenses	379,402	314,493	64,909
Operating income (loss)	(62,242)	39,019	(101,261)
Interest expense	14,993	14,497	496
Income (loss) before income taxes	(77,235)	24,522	(101,757)
Provision (benefit) for income taxes	(21,033)	5,013	(26,046)
Net income (loss)	\$ (56,202)	\$ 19,509	\$ (75,711)

Supplementary Operating Segment Information

Operating segments are defined as components of an enterprise that engage in business activities and for which discrete financial information is available that is evaluated on a regular basis by the chief operating decision maker to make decisions about how to allocate resources and assess performance. We are a leading specialty retailer and offer a broad selection of quality, branded durable consumer goods and related services in addition to a proprietary credit solution for our core credit-constrained consumers. We have two operating segments: (i) retail and (ii) credit. Our operating segments complement one another. The retail segment operates primarily through our stores and website and its product offerings include furniture and mattresses, home appliances, consumer electronics and home office products from leading global brands across a wide range of price points. Our credit segment offers affordable financing solutions to a large, under-served population of credit-constrained consumers who typically have limited credit alternatives. Our operating segments provide customers the opportunity to comparison shop across brands with confidence in our competitive prices as well as affordable monthly payment options, next day delivery and installation in the majority of our markets, and product repair service. We believe our large, attractively merchandised retail stores and credit solutions offer a distinctive value proposition compared to other retailers that target our core customer demographic. The operating segments follow the same accounting policies used in our Condensed Consolidated Financial Statements.

We evaluate a segment's performance based upon operating income. SG&A includes the direct expenses of the retail and credit operations, allocated corporate overhead expenses, and a charge to the credit segment to reimburse the retail segment for expenses it incurs related to occupancy, personnel, advertising and other direct costs of the retail segment which benefit the credit operations by sourcing credit customers and collecting payments. The reimbursement received by the retail segment from the credit segment is calculated using an annual rate of 2.5% multiplied by the average outstanding portfolio balance for each applicable period.

The following table represents total revenues, costs and expenses, operating income and loss before taxes attributable to these operating segments for the periods indicated:

Retail Segment: <i>(dollars in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Revenues:			
Product sales	\$ 207,198	\$ 234,445	\$ (27,247)
Repair service agreement commissions	20,101	24,024	(3,923)
Service revenues	3,031	3,510	(479)
Total net sales	230,330	261,979	(31,649)
Finance charges and other	235	202	33
Total revenues	230,565	262,181	(31,616)
Costs and expenses:			
Cost of goods sold	147,014	157,228	(10,214)
Selling, general and administrative expense ⁽¹⁾	78,174	79,622	(1,448)
Provision for bad debts	168	129	39
Charges and credits	—	(695)	695
Total costs and expenses	225,356	236,284	(10,928)
Operating income	\$ 5,209	\$ 25,897	\$ (20,688)
Number of stores:			
Beginning of period	137	123	
Opened	2	4	
End of period	139	127	

<i>Credit Segment:</i> <i>(in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Revenues:			
Finance charges and other revenues	\$ 86,595	\$ 91,331	\$ (4,736)
Costs and expenses:			
Selling, general and administrative expense ⁽¹⁾	34,833	38,292	(3,459)
Provision for bad debts	117,158	39,917	77,241
Charges and credits	2,055	—	2,055
Total costs and expenses	154,046	78,209	75,837
Operating income (loss)	(67,451)	13,122	(80,573)
Interest expense	14,993	14,497	496
Loss before income taxes	\$ (82,444)	\$ (1,375)	\$ (81,069)

(1) For the three months ended April 30, 2020 and 2019, the amount of overhead allocated to each segment reflected in SG&A was \$7.3 million and \$7.9 million, respectively. For the three months ended April 30, 2020 and 2019, the amount of reimbursement made to the retail segment by the credit segment was \$9.8 million and \$9.7 million, respectively.

Three months ended April 30, 2020 compared to three months ended April 30, 2019

Revenues. The following table provides an analysis of retail net sales by product category in each period, including repair service agreement (“RSA”) commissions and service revenues, expressed both in dollar amounts and as a percent of total net sales:

<i>(dollars in thousands)</i>	Three Months Ended April 30,				Change	%	Same Store
	2020	% of Total	2019	% of Total		Change	% Change
Furniture and mattress	\$ 68,893	29.9%	\$ 88,364	33.7%	\$ (19,471)	(22.0)%	(26.9)%
Home appliance	81,285	35.3	77,290	29.5	3,995	5.2	(1.7)
Consumer electronics	35,776	15.5	49,649	19.0	(13,873)	(27.9)	(33.5)
Home office	17,366	7.5	15,706	6.0	1,660	10.6	3.1
Other	3,878	1.8	3,436	1.3	442	12.9	7.0
Product sales	207,198	90.0	234,445	89.5	(27,247)	(11.6)	(17.5)
Repair service agreement commissions ⁽¹⁾	20,101	8.7	24,024	9.2	(3,923)	(16.3)	(18.4)
Service revenues	3,031	1.3	3,510	1.3	(479)	(13.6)	
Total net sales	\$ 230,330	100.0%	\$ 261,979	100.0%	\$ (31,649)	(12.1)%	(17.6)%

(1) The total change in sales of RSA commissions includes retrospective commissions, which are not reflected in the change in same store sales.

The decrease in product sales for the three months ended April 30, 2020 was primarily driven by a decrease in same store sales of 17.6%, partially offset by new store growth. The decrease in same store sales reflects more stringent underwriting standards, reductions in store hours, state mandated stay-at-home orders and lower sales of discretionary categories as a result of the COVID-19 pandemic.

The following table provides the change of the components of finance charges and other revenues:

<i>(in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Interest income and fees	\$ 81,843	\$ 84,017	\$ (2,174)
Insurance income	4,752	7,314	(2,562)
Other revenues	235	202	33
Finance charges and other revenues	\$ 86,830	\$ 91,533	\$ (4,703)

The decrease in finance changes and other revenues was primarily due to higher charge offs and a decrease in insurance retrospective income, partially offset by higher blended weighted average rates across the customer accounts receivable portfolio.

The following table provides key portfolio performance information:

<i>(dollars in thousands)</i>	Three Months Ended April 30,		Change
	2020	2019	
Interest income and fees	\$ 81,843	\$ 84,017	\$ (2,174)
Net charge-offs	(58,888)	(48,061)	(10,827)
Interest expense	(14,993)	(14,497)	(496)
Net portfolio income	\$ 7,962	\$ 21,459	\$ (13,497)
Average outstanding portfolio balance	\$ 1,557,762	\$ 1,558,322	\$ (560)
Interest income and fee yield (annualized)	21.3%	22.1%	
Net charge-off % (annualized)	15.1%	12.3%	

Retail Gross Margin

<i>(dollars in thousands)</i>	Three Months Ended April 30,		Change
	2020	2019	
Retail total net sales	\$ 230,330	\$ 261,979	\$ (31,649)
Cost of goods sold	147,014	157,228	(10,214)
Retail gross margin	\$ 83,316	\$ 104,751	\$ (21,435)
Retail gross margin percentage	36.2%	40.0%	

The year-over-year decrease in retail gross margin was primarily driven by the impact of fixed logistics costs on lower sales, a decrease in retrospective income on RSA commissions and higher sales of lower margin products.

Selling, General and Administrative Expense

<i>(dollars in thousands)</i>	Three Months Ended April 30,		Change
	2020	2019	
Retail segment	\$ 78,174	\$ 79,622	\$ (1,448)
Credit segment	34,833	38,292	(3,459)
Selling, general and administrative expense - Consolidated	\$ 113,007	\$ 117,914	\$ (4,907)
Selling, general and administrative expense as a percent of total revenues	35.6%	33.4%	

The SG&A decrease in the retail segment was primarily due to decreased advertising costs and labor costs, partially offset by increased occupancy costs. The SG&A decrease in the credit segment was primarily due to a decrease in labor costs, general operating expenses and legal costs.

As a percent of average total customer portfolio balance (annualized), SG&A for the credit segment for the three months ended April 30, 2020 decreased 0.9% as compared to the three months ended April 30, 2019.

Provision for Bad Debts

<i>(dollars in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Retail segment	\$ 168	\$ 129	\$ 39
Credit segment	117,158	39,917	77,241
Provision for bad debts - Consolidated	<u>\$ 117,326</u>	<u>\$ 40,046</u>	<u>\$ 77,280</u>
Provision for bad debts - Credit segment, as a percent of average outstanding portfolio balance (annualized)	30.1%	10.2%	

The provision for bad debts increased to \$117.3 million for the three months ended April 30, 2020 from \$40.0 million for the three months ended April 30, 2019, an increase of \$77.3 million. The year-over-year increase was primarily driven by an increase in the allowance for bad debts of \$65.5 million due to an increase in forecasted unemployment rates stemming from the COVID-19 pandemic and an increase in charge-offs of \$10.8 million.

Charges and Credits

<i>(in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Professional fees	\$ 2,055	\$ —	\$ 2,055
Facility relocation costs	—	(695)	695
Total charges and credits	<u>\$ 2,055</u>	<u>\$ (695)</u>	<u>\$ 2,750</u>

During the three months ended April 30, 2020, we recognized \$2.1 million in professional fees associated with non-recurring expenses relating to fiscal year 2020. During the three months ended April 30, 2019, we recognized a \$0.7 million gain from increased sublease income related to the consolidation of our corporate headquarters.

Interest Expense

Interest expense was \$15.0 million for the three months ended April 30, 2020 and \$14.5 million for the three months ended April 30, 2019, an increase of \$0.5 million or 3.4%. The increase was driven by a higher average outstanding balance of debt, partially offset by a lower effective interest rate.

Provision for Income Taxes

<i>(dollars in thousands)</i>	Three Months Ended April 30,		
	2020	2019	Change
Provision (benefit) for income taxes	\$ (21,033)	\$ 5,013	\$ (26,046)
Effective tax rate	27.2%	20.4%	

The decrease in income tax expense for the three months ended April 30, 2020 compared to the three months ended April 30, 2019 was driven by a \$101.8 million decrease in pre-tax earnings at the statutory rate of 21%. An additional \$4.9 million benefit was also recognized in the current period as a result of net operating loss provisions within the CARES Act that provides for a five year carryback of losses.

Customer Accounts Receivable Portfolio

We provide in-house financing to individual consumers on a short- and medium-term basis (contractual terms generally range from 12 to 36 months) for the purchase of durable products for the home. A significant portion of our customer credit portfolio is due from customers that are considered higher-risk, subprime borrowers. Our financing is executed using contracts that require fixed monthly payments over fixed terms. We maintain a secured interest in the product financed. If a payment is delayed, missed or paid only in part, the account becomes delinquent. Our collection personnel attempt to contact a customer once their account becomes delinquent. Our loan contracts generally reflect an interest rate of between 18% and 36%. We have implemented our direct consumer loan program across all Texas, Louisiana, Tennessee and Oklahoma locations. The states of Texas, Louisiana, Tennessee and Oklahoma represented approximately 75% of our originations during the three months ended April 30, 2020, with maximum equivalent interest rates of up to 27% in Oklahoma, up to 30% in Texas and Tennessee, and up to 36% in Louisiana.

In states where regulations do not generally limit the interest rate charged, our loan contracts generally reflect an interest rate between 29.99% and 35.99%. These states represented 12% of our originations during the three months ended April 30, 2020.

We offer qualified customers a 12-month no-interest option finance program. If the customer is delinquent in making a scheduled monthly payment or does not repay the principal in full by the end of the no-interest option program period (grace periods are provided), the account does not qualify for the no-interest provision and none of the interest earned is waived.

We regularly extend or “re-age” a portion of our delinquent customer accounts as a part of our normal collection procedures to protect our investment. Generally, extensions are granted to customers who have experienced a financial difficulty (such as the temporary loss of employment), which is subsequently resolved, and when the customer indicates a willingness and ability to resume making monthly payments. These re-ages involve modifying the payment terms to defer a portion of the cash payments currently required of the debtor to help the debtor improve his or her financial condition and eventually be able to pay the account balance. Our re-aging of customer accounts does not change the interest rate or the total principal amount due from the customer and typically does not reduce the monthly contractual payments. We may also charge the customer an extension fee, which approximates the interest owed for the time period the contract was past due. Our re-age programs consist of extensions and two payment updates, which include unilateral extensions to customers who make two full payments in three calendar months in certain states. Re-ages are not granted to debtors who demonstrate a lack of intent or ability to service the obligation or have reached our limits for account re-aging. To a much lesser extent, we may provide the customer the ability to re-age their obligation by refinancing the account, which typically does not change the interest rate or the total principal amount due from the customer but does reduce the monthly contractual payments and extends the term. Under these options, as with extensions, the customer must resolve the reason for delinquency and show a willingness and ability to resume making contractual monthly payments.

On March 27, 2020 the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law to address the economic impact of the COVID-19 pandemic. Under the CARES Act, modifications deemed to be COVID-19 related are not considered a TDR if the loan was current (not more than 30 days past due as of March 31, 2020) and the deferral was executed between April 1, 2020 and the earlier of 60 days after the termination of the COVID-19 national emergency or December 31, 2020. In response to the CARES Act, the Company implemented two short-term deferral programs for our customers. The carrying value of the customer receivables on accounts which were current prior to receiving a COVID-19 related deferment was \$50.5 million as of April 30, 2020.

The following tables present, for comparison purposes, information about our managed portfolio (information reflects on a combined basis the securitized receivables transferred to the VIEs and receivables not transferred to the VIEs):

	As of April 30,	
	2020	2019
Weighted average credit score of outstanding balances ⁽¹⁾	587	591
Average outstanding customer balance	\$ 2,676	\$ 2,686
Balances 60+ days past due as a percentage of total customer portfolio carrying value ⁽²⁾⁽³⁾⁽⁴⁾	13.3%	8.7%
Re-aged balance as a percentage of total customer portfolio carrying value ⁽²⁾⁽³⁾⁽⁴⁾	32.3%	25.8%
Carrying value of account balances re-aged more than six months (in thousands) ⁽³⁾	\$ 115,830	\$ 97,620
Allowance for bad debts and uncollectible interest as a percentage of total customer accounts receivable portfolio balance	26.2%	13.5%
Percent of total customer accounts receivable portfolio balance represented by no-interest option receivables	17.3%	23.6%

	Three Months Ended April 30,	
	2020	2019
Total applications processed	295,551	258,787
Weighted average origination credit score of sales financed ⁽¹⁾	609	608
Percent of total applications approved and utilized	22.3%	27.6%
Average income of credit customer at origination	\$ 45,800	\$ 45,200
Percent of retail sales paid for by:		
In-house financing, including down payments received	63.3%	68.2%
Third-party financing	17.1%	16.1%
Third-party lease-to-own option	8.5%	8.4%
	88.9%	92.7%

(1) Credit scores exclude non-scored accounts.

(2) Accounts that become delinquent after being re-aged are included in both the delinquency and re-aged amounts.

(3) Carrying value reflects the total customer accounts receivable portfolio balance, net of deferred fees and origination costs, the allowance for no-interest option credit programs and the allowance for uncollectible interest.

(4) Increase was primarily driven by higher risk loans originated during the first half of fiscal year 2020 and an increase in new customer mix.

Our customer portfolio balance and related allowance for uncollectible accounts are segregated between customer accounts receivable and restructured accounts. Customer accounts receivable include all accounts for which the payment term has not been cumulatively extended over three months or refinanced. Restructured accounts include all accounts for which payment term has been re-aged in excess of three months or refinanced.

For customer accounts receivable (excluding restructured accounts), the allowance for uncollectible accounts as a percentage of the total customer accounts receivable portfolio balance increased to 23.3% as of April 30, 2020 from 10.3% as of April 30, 2019. The increase in our allowance for uncollectible accounts was primarily related to the implementation of CECL during the first quarter of fiscal year 2021, which transitioned our allowance from an incurred loss reserve to a lifetime reserve, and an increase in our economic adjustment related to the COVID-19 pandemic.

The percentage of the carrying value of non-restructured accounts greater than 60 days past due increased 360 basis points over the prior year period to 10.6% as of April 30, 2020 from 7.0% as of April 30, 2019. The increase was primarily due to higher risk loans originated during the first half of fiscal year 2020 and an increase in new customer mix.

For restructured accounts, the allowance for uncollectible accounts as a percentage of the portfolio balance was 41.7% as of April 30, 2020 as compared to 35.6% as of April 30, 2019. The increase in the allowance for uncollectible accounts was due to an increase in delinquencies.

The percent of bad debt charge-offs, net of recoveries, to average outstanding portfolio balance was 15.1% for the three months ended April 30, 2020 compared to 12.3% for the three months ended April 30, 2019. The increase was primarily due to the economic impact of the COVID-19 pandemic. The increase in bad debt charge-offs, net of recoveries, was primarily due to higher risk loans originated during the first half of fiscal year 2020 and an increase in new customer mix.

As of April 30, 2020 and 2019, balances under no-interest programs included within customer receivables were \$259.3 million and \$362.0 million, respectively.

Liquidity and Capital Resources

We require liquidity and capital resources to finance our operations and future growth as we add new stores to our operations, which in turn requires additional working capital for increased customer receivables and inventory. We generally finance our operations through a combination of cash flow generated from operations, the use of our Revolving Credit Facility, and through periodic securitizations of originated customer receivables. We plan to execute periodic securitizations of future originated customer receivables.

We believe, based on our current projections, that we have sufficient sources of liquidity to fund our operations, store expansion and renovation activities, and capital expenditures for at least the next 12 months.

Operating cash flows. For the three months ended April 30, 2020, net cash provided by operating activities was \$152.5 million compared to \$49.7 million for the three months ended April 30, 2019. The increase in net cash provided by operating activities

was primarily driven by an increase in cash provided by working capital, which was primarily due to a decrease in receivables as we increased collections on customer and vendor receivables outstanding, an increase in payables as we preserved our liquidity in the midst of the COVID-19 pandemic, and an increase in net income when adjusted for non-cash activity.

Investing cash flows. For the three months ended April 30, 2020, net cash used in investing activities was \$16.7 million compared to \$13.1 million for the three months ended April 30, 2019. The change was primarily the result of higher capital expenditures related to investments in two new distribution centers to support long-term growth, the commitment for which was made prior to the COVID-19 pandemic.

Financing cash flows. For the three months ended April 30, 2020, net cash provided by financing activities was \$144.1 million compared to net cash used in financing activities of \$13.7 million for the three months ended April 30, 2019. During the period ended April 30, 2020, net borrowings under our Revolving Credit Facility were \$306.9 million as compared to net payments of \$266.5 million during the period ended April 30, 2019. The \$306.9 million in net borrowings included \$275.0 million borrowed during the three months ended April 30, 2020 to preserve financial flexibility in the midst of the COVID-19 pandemic. Payments on asset-backed notes of approximately \$161.5 million were made during the three months ended April 30, 2020 compared to approximately \$124.1 million in the comparable prior year period. During the three months ended April 30, 2019, we issued 2019-A VIE asset backed notes resulting in net proceeds to us of approximately \$379.2 million, net of transaction costs, which were used to pay down the entire balance of the Company's Revolving Credit Facility outstanding at the time of issuance and for other general corporate purposes.

Share Repurchase Program. On May 30, 2019, our Board of Directors approved a stock repurchase program pursuant to which we had the authorization to repurchase up to \$75.0 million of our outstanding common stock. The stock repurchase program expired on May 30, 2020. No shares were repurchased for the quarter ended April 30, 2020.

Senior Notes. On July 1, 2014, we issued \$250.0 million of the unsecured Senior Notes due July 2022 bearing interest at 7.25% (the "Senior Notes"), pursuant to an indenture dated July 1, 2014 (as amended, the "Indenture"), among Conn's, Inc., its subsidiary guarantors (the "Guarantors") and U.S. Bank National Association, as trustee. The effective interest rate of the Senior Notes after giving effect to the discount and issuance costs is 7.8%.

The Indenture restricts the Company's and certain of its subsidiaries' ability to: (i) incur indebtedness; (ii) pay dividends or make other distributions in respect of, or repurchase or redeem, our capital stock ("restricted payments"); (iii) prepay, redeem or repurchase debt that is junior in right of payment to the notes; (iv) make loans and certain investments; (v) sell assets; (vi) incur liens; (vii) enter into transactions with affiliates; and (viii) consolidate, merge or sell all or substantially all of our assets. These covenants are subject to a number of important exceptions and qualifications. During any time when the Senior Notes are rated investment grade by either of Moody's Investors Service, Inc. or Standard & Poor's Ratings Services and no default (as defined in the Indenture) has occurred and is continuing, many of such covenants will be suspended and we will cease to be subject to such covenants during such period. As of April 30, 2020, \$162.0 million would have been free from the restricted payments covenant contained in the Indenture. Events of default under the Indenture include customary events, such as a cross-acceleration provision in the event that we fail to make payment of other indebtedness prior to the expiration of any applicable grace period or upon acceleration of indebtedness prior to its stated maturity date in an amount exceeding \$25.0 million, as well as in the event a judgment is entered against us in excess of \$25.0 million that is not discharged, bonded or insured.

Asset-backed Notes. From time to time, we securitize customer accounts receivables by transferring the receivables to various bankruptcy-remote VIEs. In turn, the VIEs issue asset-backed notes secured by the transferred customer accounts receivables and restricted cash held by the VIEs.

Under the terms of the securitization transactions, all cash collections and other cash proceeds of the customer receivables go first to the servicer and the holders of issued notes, and then to us as the holder of non-issued notes, if any, and residual equity. We retain the servicing of the securitized portfolios and receive a monthly fee of 4.75% (annualized) based on the outstanding balance of the securitized receivables. In addition, we, rather than the VIEs, retain all credit insurance income together with certain recoveries related to credit insurance and RSAs on charge-offs of the securitized receivables, which are reflected as a reduction to net charge-offs on a consolidated basis.

The asset-backed notes were offered and sold to qualified institutional buyers pursuant to the exemptions from registration provided by Rule 144A under the Securities Act of 1933. If an event of default were to occur under the indenture that governs the respective asset-backed notes, the payment of the outstanding amounts may be accelerated, in which event the cash proceeds of the receivables that otherwise might be released to the residual equity holder would instead be directed entirely toward repayment of the asset-backed notes, or if the receivables are liquidated, all liquidation proceeds could be directed solely to repayment of the asset-backed notes as governed by the respective terms of the asset-backed notes. The holders of the asset-backed notes have no recourse to assets outside of the VIEs. Events of default include, but are not limited to, failure to make required payments on the asset-backed notes or specified bankruptcy-related events.

The asset-backed notes outstanding as of April 30, 2020 consisted of the following:

(dollars in thousands)

Asset-Backed Notes	Original Principal Amount	Original Net Proceeds ⁽¹⁾	Current Principal Amount	Issuance Date	Maturity Date	Contractual Interest Rate	Effective Interest Rate ⁽²⁾
2017-B Class C Notes	\$ 78,640	\$ 77,843	\$ 35,421	12/20/2017	11/15/2022	5.95%	6.44%
2018-A Class A Notes	219,200	217,832	23,016	8/15/2018	1/17/2023	3.25%	5.11%
2018-A Class B Notes	69,550	69,020	13,880	8/15/2018	1/17/2023	4.65%	5.26%
2018-A Class C Notes	69,550	68,850	13,880	8/15/2018	1/17/2023	6.02%	6.61%
2019-A Class A Notes	254,530	253,026	46,906	4/24/2019	10/16/2023	3.40%	4.85%
2019-A Class B Notes	64,750	64,276	60,239	4/24/2019	10/16/2023	4.36%	4.38%
2019-A Class C Notes	62,510	61,898	58,155	4/24/2019	10/16/2023	5.29%	5.09%
2019-B Class A Notes	317,150	315,417	191,191	11/26/2019	6/17/2024	2.66%	4.06%
2019-B Class B Notes	85,540	84,916	85,540	11/26/2019	6/17/2024	3.62%	3.98%
2019-B Class C Notes	83,270	82,456	83,270	11/26/2019	6/17/2024	4.60%	4.98%
Total	\$ 1,304,690	\$ 1,295,534	\$ 611,498				

(1) After giving effect to debt issuance costs.

(2) For the three months ended April 30, 2020, and inclusive of the impact of changes in timing of actual and expected cash flows.

Revolving Credit Facility. On May 23, 2018, Conn’s, Inc. and certain of its subsidiaries (the “Borrowers”) entered into the Fourth Amended and Restated Loan and Security Agreement (the “Fourth A&R Loan and Security Agreement”), with certain lenders, which provides for a \$650.0 million asset-based revolving credit facility (the “Revolving Credit Facility”) under which credit availability is subject to a borrowing base and a maturity date of May 23, 2022.

Loans under the Revolving Credit Facility bore interest, at our option, at a rate equal to LIBOR plus the applicable margin ranging from 2.50% to 3.25% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 1.50% to 2.25% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate was the greatest of the prime rate, the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. We also pay an unused fee on the portion of the commitments that is available for future borrowings or letters of credit at a rate ranging from 0.25% to 0.50% per annum, depending on the average outstanding balance and letters of credit of the Revolving Credit Facility in the immediately preceding quarter. The weighted-average interest rate on borrowings outstanding and including unused line fees under the Revolving Credit Facility was 4.9% for the three months ended April 30, 2020.

The Revolving Credit Facility provides funding based on a borrowing base calculation that includes customer accounts receivable and inventory and provides for a \$40.0 million sub-facility for letters of credit to support obligations incurred in the ordinary course of business. The obligations under the Revolving Credit Facility are secured by substantially all assets of the Company, excluding the assets of the VIEs. As of April 30, 2020, we had immediately available borrowing capacity of \$151.7 million under our Revolving Credit Facility, net of standby letters of credit issued of \$2.5 million. We also had \$159.8 million that could have become available under our Revolving Credit Facility were we to grow the balance of eligible customer receivables and total eligible inventory balances. On March 18, 2020, the Company completed the borrowing of an additional \$275.0 million under its \$650.0 million Revolving Credit Facility, maturing in May 23, 2022, as a precautionary measure to increase its cash position and maintain financial flexibility in response to the COVID-19 pandemic.

On June 5, 2020 we entered into the Third Amendment to our Revolving Credit Facility (the “Third Amendment”). Under the Third amendment, loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate announced by Bank of America, N.A., the federal funds rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%.

The Revolving Credit Facility places restrictions on our ability to incur additional indebtedness, grant liens on assets, make distributions on equity interests, dispose of assets, make loans, pay other indebtedness, engage in mergers, and other matters. The Revolving Credit Facility restricts our ability to make dividends and distributions unless no event of default exists and a liquidity test is satisfied. Subsidiaries of the Company may pay dividends and make distributions to the Company and other obligors under the Revolving Credit Facility without restriction. We are restricted from making distributions, including repayments of the Senior Notes or other distributions, as a result of the Revolving Credit Facility distribution and payment restrictions. The Revolving

Credit Facility contains customary default provisions, which, if triggered, could result in acceleration of all amounts outstanding under the Revolving Credit Facility.

Debt Covenants. On June 5, 2020 we entered into the Third Amendment, which waived the interest coverage covenants beginning with the first quarter of fiscal year 2021 and continuing until the date on which the Company delivers financial statements and a compliance certificate for the fourth quarter of fiscal year 2021. See Note 9, *Subsequent Events*, of the Condensed Consolidated Financial Statements in Part I, Item 1, of this Quarterly Report on Form 10-Q for further details. After giving effect to the foregoing amendment, as of April 30, 2020, we were in compliance with the covenants in our Revolving Credit Facility. If we were to breach certain covenants under our Revolving Credit Facility in the future, that breach might trigger a default under our Revolving Credit Facility, which, if not remedied, would require a waiver from the lenders under our Revolving Credit Facility or an amendment to our Revolving Credit Facility in order for us to avoid an event of default. There can be no assurances that, in the event of such a covenant breach, we would be able to obtain the necessary waivers or amendments to remain in compliance with the covenants in our Revolving Credit Facility.

A summary of the significant financial covenants that govern our Revolving Credit Facility, as amended, compared to our actual compliance status at April 30, 2020 is presented below:

	Actual	Required Minimum/ Maximum
Interest Coverage Ratio for the quarter must equal or exceed minimum	Not Tested	1.00:1.00
Interest Coverage Ratio for the trailing two quarters must equal or exceed minimum	Not Tested	1.50:1.00
Leverage Ratio must not exceed maximum	2.31:1.00	4.00:1.00
ABS Excluded Leverage Ratio must not exceed maximum	1.20:1.00	2.00:1.00
Capital Expenditures, net, must not exceed maximum	\$35.3 million	\$100.0 million

All capitalized terms in the above table are defined by the Revolving Credit Facility and may or may not match directly to the financial statement captions in this document. The covenants are calculated quarterly, except for capital expenditures, which is calculated for a period of four consecutive fiscal quarters, as of the end of each fiscal quarter.

Capital Expenditures. We lease the majority of our stores under operating leases and our plans for future store locations anticipate operating leases, but do not exclude store ownership. Our capital expenditures for future new store projects should primarily be for our tenant improvements to the property leased (including any new distribution centers and cross-dock facilities), the cost of which is estimated to be between \$1.6 million and \$2.5 million per store (before tenant improvement allowances), and for our existing store remodels, estimated to range between \$0.7 million and \$1.2 million per store remodel (before tenant improvement allowances), depending on store size. In the event we purchase existing properties, our capital expenditures will depend on the particular property and whether it is improved when purchased. We are continuously reviewing new relationships and funding sources and alternatives for new stores, which may include “sale-leaseback” or direct “purchase-lease” programs, as well as other funding sources for our purchase and construction of those projects. If we do not purchase the real property for new stores, our direct cash needs should include only our capital expenditures for tenant improvements to leased properties and our remodel programs for existing stores. We opened two new stores during the three months ended April 30, 2020 and currently plan to open a total of six to eight new stores during fiscal year 2021. Our anticipated capital expenditures for the remainder of fiscal year 2021 are between \$36.0 million and \$40.0 million, which includes expenditures for new stores we plan to open in fiscal year 2021.

Cash Flow

We periodically evaluate our liquidity requirements, capital needs and availability of resources in view of inventory levels, expansion plans, debt service requirements and other operating cash needs. To meet our short- and long-term liquidity requirements, including payment of operating expenses, funding of capital expenditures and repayment of debt, we rely primarily on cash from operations. As of April 30, 2020, beyond cash generated from operations, we had (i) immediately available borrowing capacity of \$151.7 million under our Revolving Credit Facility and (ii) \$287.3 million of cash on hand. However, we have, in the past, sought to raise additional capital.

We expect that, for the next 12 months, cash generated from operations, proceeds from potential accounts receivable securitizations and our Revolving Credit Facility will be sufficient to provide us the ability to fund our operations, provide the increased working capital necessary to support our strategy and fund planned capital expenditures discussed above in *Capital Expenditures*.

We may repurchase or otherwise retire our debt and take other steps to reduce our debt or otherwise improve our financial position. These actions could include open market debt repurchases, negotiated repurchases, other retirements of outstanding debt and opportunistic refinancing of debt. The amount of debt that may be repurchased or otherwise retired, if any, will depend on market conditions, the Company’s cash position, compliance with debt covenants and restrictions and other considerations.

Off-Balance Sheet Liabilities and Other Contractual Obligations

We do not have any off-balance sheet arrangements as defined by Item 303(a)(4) of Regulation S-K. The following table presents a summary of our minimum contractual commitments and obligations as of April 30, 2020:

(in thousands)	Total	Payments due by period			
		Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years
Debt, including estimated interest payments ⁽¹⁾:					
Revolving Credit Facility ⁽¹⁾	\$ 357,835	\$ 10,584	\$ 347,251	\$ —	\$ —
Senior Notes	263,342	16,458	246,884	—	—
2017-B Class C Notes ⁽²⁾	40,786	2,108	38,678	—	—
2018-A Class A Notes ⁽²⁾	25,049	748	24,301	—	—
2018-A Class B Notes ⁽²⁾	15,634	645	14,989	—	—
2018-A Class C Notes ⁽²⁾	16,152	836	15,316	—	—
2019-A Class A Notes ⁽²⁾	52,429	1,595	3,190	47,644	—
2019-A Class B Notes ⁽²⁾	69,334	2,626	5,253	61,455	—
2019-A Class C Notes ⁽²⁾	68,808	3,076	6,153	59,579	—
2019-B Class A Notes ⁽²⁾	212,216	5,086	10,171	196,959	—
2019-B Class B Notes ⁽²⁾	98,342	3,097	6,193	89,052	—
2019-B Class C Notes ⁽²⁾	99,106	3,830	7,661	87,615	—
Financing lease obligations	7,989	1,083	1,808	1,713	3,385
Operating leases:					
Real estate	570,366	75,681	164,522	139,993	190,170
Equipment	1,359	536	672	109	42
Contractual commitments ⁽³⁾	99,080	91,726	6,374	980	—
Total	\$ 1,997,827	\$ 219,715	\$ 899,416	\$ 685,099	\$ 193,597

(1) Estimated interest payments are based on the outstanding balance as of April 30, 2020 and the interest rate in effect at that time.

(2) The payments due by period for the Senior Notes and asset-backed notes were based on their respective maturity dates at their respective fixed annual interest rate. Actual principal and interest payments on the asset-backed notes will reflect actual proceeds from the securitized customer accounts receivables.

(3) Contractual commitments include commitments to purchase inventory of \$65.8 million.

Issuer and Guarantor Subsidiary Summarized Financial Information

Conn's, Inc. is a holding company with no independent assets or operations other than its investments in its subsidiaries. The Senior Notes, which were issued by Conn's, Inc., are fully and unconditionally guaranteed on a joint and several senior unsecured basis by the Guarantors. As of April 30, 2020 and January 31, 2020, the direct or indirect subsidiaries of Conn's, Inc. that were not Guarantors (the "Non-Guarantor Subsidiaries") were the VIEs and minor subsidiaries. There are no restrictions under the Indenture on the ability of any of the Guarantors to transfer funds to Conn's, Inc. in the form of dividends or distributions.

The following tables present on a combined basis for the Issuer and the Guarantor Subsidiaries, a summarized Balance Sheet as of April 30, 2020 and January 31, 2020, and a summarized Statement of Operations on a consolidated basis for the three months ended April 30, 2020. The information presented below excludes eliminations necessary to arrive at the information on a consolidated basis. Investments in subsidiaries are accounted for by the parent company using the equity method for purposes of this presentation. Amounts provided do not represent our total consolidated amounts, as of April 30, 2020 and January 31, 2020, and for the three months ended April 30, 2020 and 2019:

<i>(in thousands)</i>	April 30, 2020	January 31, 2020
Assets		
Cash, cash equivalents and restricted cash	\$ 289,604	\$ 7,641
Customer accounts receivable	259,839	279,977
Inventories	204,923	219,756
Net due from non-guarantor subsidiary	—	3,692
Other current assets	82,986	84,514
Total current assets	837,352	595,580
Long-term portion of customer accounts receivable	278,372	243,307
Property and equipment, net	186,655	173,031
Right of use assets, net	264,230	242,457
Other assets	59,146	30,654
Total assets	\$ 1,625,755	\$ 1,285,029
Liabilities		
Current portion of debt	\$ 772	\$ 605
Lease liability operating - current	31,367	35,390
Net due to non-guarantor subsidiary	8,591	—
Other liabilities	142,606	119,856
Total current liabilities	183,336	155,851
Lease liability operating - non current	355,868	329,081
Long-term debt	565,067	257,414
Other long-term liabilities	24,241	21,334
Total liabilities	\$ 1,128,512	\$ 763,680
		Three Months Ended April 30, 2020
Net sales and finances charges		\$ 274,072
Servicing fee revenue from non-guarantor subsidiary		10,568
Total revenues		284,640
Total costs and expenses		(317,888)
Net loss		\$ (33,248)

Critical Accounting Policies and Estimates

The preparation of financial statements and related disclosures in conformity with GAAP requires us to make estimates that affect the reported amounts of assets, liabilities, revenues and expenses, and the disclosure of contingent assets and liabilities. Certain accounting policies are considered “critical accounting policies” because they are particularly dependent on estimates made by us about matters that are inherently uncertain and could have a material impact to our Condensed Consolidated Financial Statements. We base our estimates on historical experience and on other assumptions that we believe are reasonable. As a result, actual results could differ because of the use of estimates. Other than with respect to the additional policy below, the description of critical accounting policies is included in our 2020 Form 10-K, filed with the SEC on April 14, 2020.

Recent Accounting Pronouncements

The information related to recent accounting pronouncements as set forth in Note 1, *Summary of Significant Accounting Policies*, of the Condensed Consolidated Financial Statements in Part I, Item 1, of this quarterly report on Form 10-Q is incorporated herein by reference.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The market risk inherent in our financial instruments represents the potential loss arising from adverse changes in interest rates. We have not been materially impacted by fluctuations in foreign currency exchange rates, as substantially all of our business is transacted in, and is expected to continue to be transacted in, U.S. dollars or U.S. dollar-based currencies. Our Senior Notes and asset-backed notes bear interest at a fixed rate and would not be affected by interest rate changes.

During the three months ended April 30, 2020, loans under the Revolving Credit Facility bore interest, at our option, at a rate equal to LIBOR plus a margin ranging from 2.50% to 3.25% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 1.50% to 2.25% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate announced by Bank of America, N.A., the federal funds effective rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%. Accordingly, changes in our quarterly total leverage ratio and LIBOR or the alternate base rate will affect the interest rate on, and therefore our costs under, the Revolving Credit Facility. As of April 30, 2020, the balance outstanding under our Revolving Credit Facility was \$336.0 million. A 100 basis point increase in interest rates on the Revolving Credit Facility would increase our borrowing costs by \$3.4 million over a 12-month period, based on the outstanding balance at April 30, 2020.

On June 5, 2020 we entered into the Third Amendment to our Revolving Credit Facility (the "Third Amendment"). Under the Third Amendment, loans under the Revolving Credit Facility bear interest, at our option, at a rate of LIBOR plus a margin ranging from 3.00% to 3.75% per annum (depending on a pricing grid determined by our total leverage ratio) or the alternate base rate plus a margin ranging from 2.00% to 2.75% per annum (depending on a pricing grid determined by our total leverage ratio). The alternate base rate is a rate per annum equal to the greatest of the prime rate announced by Bank of America, N.A., the federal funds rate plus 0.5%, or LIBOR for a 30-day interest period plus 1.0%.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

As of April 30, 2020, our management (under the supervision and with the participation of our principal executive officer and our principal financial officer and as defined in Rule 13a-15(f) or Rule 15(d)-15(f) under the Exchange Act) assessed the effectiveness of our internal control over financial reporting. In making this assessment, management used the criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). Based upon this assessment and those criteria, management believes that, as of April 30, 2020, our internal controls over financial reporting were not effective due to the previously disclosed material weakness in our internal controls over financial reporting described in Part II, Item 9A in our Annual Report on Form 10-K for the fiscal year ended January 31, 2020.

Remediation Plan

As previously described in Part II, Item 9A of our Annual Report on Form 10-K for the fiscal year ended January 31, 2020, we began implementing a remediation plan to address the material weakness mentioned above. We have substantially completed the remediation activities as of the date of this report and believe that we have strengthened our information technology general controls to address the identified material weakness. However, control weaknesses are not considered remediated until new internal controls have been operational for a period of time, are tested, and management concludes that these controls are operating effectively. We expect to complete the remediation process as early as practicable in fiscal year 2021.

Changes in Internal Controls over Financial Reporting

Other than the changes related to our remediation efforts described above, for the quarter ended April 30, 2020, there have been no changes in our internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

The information set forth in Note 7, *Contingencies*, of the Condensed Consolidated Financial Statements in Part I, Item 1, of this quarterly report on Form 10-Q is incorporated herein by reference.

ITEM 1A. RISK FACTORS

As of the date of the filing, there have been no material changes to the risk factors previously disclosed in Part I, Item 1A, of our 2020 Form 10-K.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

The following table presents information with respect to purchases of Conn's common stock by Conn's or its affiliates during the quarter ended April 30, 2020.

Period	Total Number of Shares Purchased (in thousands)⁽¹⁾	Average Price Paid per Share⁽²⁾	Total Number of Shares Purchased as Part of Publicly Announced Program (in thousands)⁽¹⁾	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Program (in millions)
February 1 - 29	—	\$ —	—	\$ 8.7
March 1 - 31	—	\$ —	—	\$ 8.7
April 1 - 30	—	\$ —	—	\$ 8.7
Total	—		—	

(1) On May 30, 2019, our Board of Directors approved a stock repurchase program pursuant to which we may repurchase up to \$75.0 million of our outstanding common stock. The stock repurchase program expired on May 30, 2020.

(2) Average price paid per share excludes costs associated with the repurchases.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURE

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

The exhibits filed as part of this report are as follows (exhibits incorporated by reference are set forth with the name of the registrant, the type of report and registration number or last date of the period for which it was filed, and the exhibit number in such filing):

Exhibit Number	Description of Document
3.1	Certificate of Incorporation of Conn's, Inc. (incorporated herein by reference to Exhibit 3.1 to Conn's, Inc. registration statement on Form S-1 (File No. 333-109046) as filed with the Securities and Exchange Commission on September 23, 2003)
3.1.1	Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. dated June 3, 2004 (incorporated herein by reference to Exhibit 3.1.1 to Form 10-Q for the quarterly period ended April 30, 2004 (File No. 000-50421) as filed with the Securities and Exchange Commission on June 7, 2004)
3.1.2	Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. dated May 30, 2012 (incorporated herein by reference to Exhibit 3.1.2 to Form 10-Q for the quarterly period ended April 30, 2012 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 5, 2012)
3.1.3	Certificate of Correction to the Certificate of Amendment to Conn's, Inc. Certificate of Incorporation (incorporated herein by reference to Exhibit 3.1.3 to Form 10-K for the annual period ended January 31, 2014 (File No. 001-34956) as filed with the Securities and Exchange Commission on March 27, 2014)
3.1.4	Certificate of Amendment to the Certificate of Incorporation of Conn's, Inc. as filed on May 29, 2014 (incorporated herein by reference to Exhibit 3.1.4 to Conn's, Inc. Form 10-Q for the quarterly period ended April 30, 2014 (File No. 001-34956) as filed with the Securities and Exchange Commission on June 2, 2014)
3.2	Second Amended and Restated Bylaws of Conn's, Inc. effective as of November 27, 2018 (incorporated herein by reference to exhibit 3.2 to Form 10-Q for the quarterly period ended October 31, 2018 (File No. 001-34956) as filed with the Securities and Exchange Commission on December 4, 2018)
10.1*	Third Amendment to Fourth Amended and Restated Loan and Security Agreement, dated June 5, 2020, by and among the Company, as parent and guarantor, Conn Appliances, Inc., Conn Credit I, LP and Conn Credit Corporation, Inc., as borrowers, certain banks and financial institutions named therein, as lenders, and JP Morgan Chase Bank, N.A., as Administrative Agent and Collateral Agent.
10.2*	Master Services Agreement for Professional Services, dated April 14, 2020, between Conn Appliances, Inc. and John Davis (filed herewith).
31.1	Rule 13a-14(a)/15d-14(a) Certification (Chief Executive Officer) (filed herewith)
31.2	Rule 13a-14(d)/15d-14(d) Certification (Chief Financial Officer) (filed herewith)
32.1	Section 1350 Certification (Chief Executive Officer and Chief Financial Officer) (furnished herewith)
101	The following financial information from our Quarterly Report on Form 10-Q for the first quarter of fiscal year 2021, filed with the SEC on June 9, 2020, formatted in Extensible Business Reporting Language (XBRL): (i) the Condensed Consolidated Balance Sheets at April 30, 2020 and January 31, 2020, (ii) the Condensed Consolidated Statements of Operations for the three months ended April 30, 2020 and 2019, (iii) the Condensed Consolidated Statements of Shareholders Equity for the periods ended April 30, 2020 and 2019, (iv) the Condensed Consolidated Statements of Cash Flows for the three months ended April 30, 2020 and 2019 and (v) the notes to the Condensed Consolidated Financial Statements.

*Filed herewith

SIGNATURE

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

CONN'S, INC.

Date: June 9, 2020

By: /s/ George L. Bchara
George L. Bchara
Executive Vice President and Chief Financial Officer
*(Principal Financial Officer and duly authorized to sign this
report on behalf of the registrant)*

**THIRD AMENDMENT TO
FOURTH AMENDED AND RESTATED LOAN AGREEMENT**

This **THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT** (this "Agreement") is dated as of June 5, 2020, and is entered into by and among **CONN'S, INC.**, a Delaware corporation, as parent and guarantor ("Parent"), **CONN APPLIANCES, INC.**, a Texas corporation ("CAI"), **CONN CREDIT I, LP**, a Texas limited partnership ("CCI"), **CONN CREDIT CORPORATION, INC.**, a Texas corporation ("CCCI"); and together with CAI and CCI, each a "Borrower" and collectively, the "Borrowers"), each lender party thereto (collectively, the "Lenders" and individually, a "Lender"), and **JPMORGAN CHASE BANK, N.A.**, a national banking association, in its capacity as Agent for the Lenders (in such capacity, "Agent").

RECITALS

WHEREAS, Borrowers and various lenders party thereto originally entered into that certain Loan and Security Agreement, dated as of August 14, 2008 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Original Loan Agreement") and certain other loan documents relating to the same;

WHEREAS, Borrowers and various lenders party thereto, amended and restated the Original Loan Agreement in its entirety and entered into that certain Amended and Restated Loan and Security Agreement, dated as of November 30, 2010 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "First Amended and Restated Loan Agreement") and certain other loan documents relating to the same.

WHEREAS, Borrowers and various lenders party thereto amended and restated the First Amended and Restated Loan Agreement in its entirety and entered into that certain Second Amended and Restated Loan and Security Agreement, dated as of September 26, 2012 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Second Amended and Restated Loan Agreement") and certain other loan documents relating to the same.

WHEREAS, Borrowers and various lenders party thereto, amended and restated the Second Amended and Restated Loan Agreement in its entirety and entered into that certain Third Amended and Restated Loan and Security Agreement, dated as of October 30, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Third Amended and Restated Loan Agreement").

WHEREAS, Borrowers and various lenders party thereto, amended and restated the Third Amended and Restated Loan Agreement in its entirety and entered into that certain Fourth Amended and Restated Loan and Security Agreement, dated as of May 23, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Fourth Amended and Restated Loan Agreement"; and together with the Original Loan Agreement, First Amended and Restated Loan Agreement, Second Amended and Restated Loan Agreement and Third Amended and Restated Loan and Security Agreement, as further amended, restated, amended and restated, supplemented or otherwise modified any time prior to the date hereof, the "Existing Loan Agreement").

WHEREAS, Obligors have requested, and Agent and Lenders have agreed, to amend certain terms of the Existing Loan Agreement and for ease of reference, have agreed to restate the Existing Credit Agreement as set forth in Exhibit A hereto, in accordance with the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the undersigned agrees as follows:

**Article I.
DEFINITIONS**

Section 1.01 Definitions. Initially capitalized terms used but not otherwise defined in this Amendment have the respective meanings given thereto in the Existing Loan Agreement, as amended hereby.

Section 1.02 Recitals. The Recitals above are incorporated herein as though set forth in full and Obligors stipulate to the accuracy of each of the Recitals.

**Article II.
AMENDMENTS TO LOAN AGREEMENT**

Section 2.01 Amendment to Existing Loan Agreement. Each of the parties hereto agrees and consents that, effective as of the Third Amendment Effective Date (as defined below), the Existing Loan 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) in the form attached as Exhibit A hereto.

**Article III.
CONDITIONS PRECEDENT**

Section 3.01 Conditions Precedent. This Agreement shall be effective upon satisfaction of each of the following conditions precedent (or, other than with respect to clause (b) below, waived) in form and substance satisfactory to Agent (such date, the “Third Amendment Effective Date”) and, for the avoidance of doubt, with respect to clauses (a) and (b) below, after giving effect to this Agreement:

(a) The representations and warranties contained herein shall be true and correct in all material respects as of the date hereof as if made on the date hereof, except for such representations and warranties limited by their terms to a specific date.

(b) No Default or Event of Default shall have occurred and be continuing.

(c) Obligors and Required Lenders have delivered to Agent, in form and substance acceptable to Agent, an executed counterpart of this Agreement.

(d) The Borrowers shall have paid to the Agent all reasonable documented and out-of-pocket fees, costs, and expenses owed to and/or incurred by the Agent arising in connection with this Agreement to the extent invoiced one (1) Business Day prior to the date hereof (including reasonable attorneys’ fees and costs of McGuireWoods, LLP, as counsel to Agent).

**Article IV.
REPRESENTATIONS AND WARRANTIES**

Each Obligor hereby represents and warrants to Agent and each Lender, as of the date hereof, and with respect to Section 4.01 and 4.02, after giving effect to this Agreement, as follows:

Section 4.01 Representations and Warranties. The representations and warranties set forth in Section 9 of the Existing Loan Agreement (as amended hereby) and in each other Loan Document are true and correct in all material respects on and as of the date hereof with the same effect as if made on and as of the date hereof, except to the extent such representations and warranties expressly relate solely to an earlier date.

Section 4.02 No Defaults. No Default or Event of Default has occurred and is continuing.

Section 4.03 Authority. The execution, delivery, and performance by each Obligor of this Agreement is within the powers and authority of each Obligor and has been duly authorized by each such Obligor (as applicable).

Section 4.04 Enforceability. This Agreement constitutes the legal, valid, and binding obligation of each Obligor, enforceable against each such Obligor in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization, or other similar laws affecting the enforcement of creditors' rights or by the effect of general equitable principles.

**Article V.
MISCELLANEOUS**

Section 5.01 Loan Documents Unmodified. Except as otherwise specifically modified by this Agreement, all terms and provisions of the Existing Loan Agreement and all other Loan Documents, as modified hereby, shall remain in full force and effect. Nothing contained in this Agreement shall in any way impair the validity or enforceability of the Loan Documents, as modified hereby, or alter, waive, annul, vary, affect, or impair any provisions, conditions, or covenants contained therein or any rights, powers, or remedies granted therein, except as otherwise specifically provided in this Agreement.

Section 5.02 Parties, Successors and Assigns. This Agreement shall be binding upon Agent, Lenders, Obligors and their respective successors and assigns.

Section 5.03 Counterparts. This Agreement may be executed in one or more counterparts and by telecopy, each of which, when so executed, shall be deemed to be an original, but all of which, when taken together shall constitute one and the same instrument.

Section 5.04 Headings. The headings, captions, and arrangements used in this Agreement are for convenience only, are not a part of this Agreement, and shall not affect the interpretation hereof.

Section 5.05 Expenses of Agent. Without limiting the terms and conditions of the Loan Documents, Borrowers agree to pay on demand all reasonable, documented and out-of-pocket costs and expenses incurred by Agent in connection with the preparation, negotiation, and execution of this Agreement and the other Loan Documents executed pursuant hereto, including without limitation, the reasonable, documented and out-of-pocket costs and fees of one legal counsel to Agent.

Section 5.06 Choice of Law; Jury Trial Waiver; Consent to Forum. WITHOUT LIMITING THE APPLICABILITY OF ANY OTHER PROVISION OF THE EXISTING LOAN AGREEMENT (AS AMENDED HEREBY), THE TERMS OF SECTIONS 14.14, 14.15 AND 14.16 OF THE EXISTING LOAN AGREEMENT (AS AMENDED HEREBY) INCORPORATED HEREIN BY REFERENCE, *MUTATIS MUTANDIS*.

Section 5.07 Total Agreement. This Agreement, the Existing Loan Agreement (as amended hereby), and all other Loan Documents shall constitute the entire agreement between the parties relating to the subject matter hereof, and shall not be changed or terminated orally.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

PARENT:

CONN'S, INC., a Delaware corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

BORROWERS:

CONN APPLIANCES, INC.,

a Texas corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

CONN CREDIT I, LP,

a Texas limited partnership

By: CAI HOLDING, LLC

a Delaware limited liability company,

its General Partner

By: CONN APPLIANCES, INC.

a Texas corporation,

its Sole Member

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

CONN CREDIT CORPORATION, INC.,

a Texas corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

**ACKNOWLEDGMENT AND AGREEMENT BY
GUARANTORS:**

CAI CREDIT INSURANCE AGENCY, INC.,
a Louisiana corporation

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

CAI Holding, LLC,

a Delaware limited liability company

By: /s/ Lee Wright

Name: Lee Wright

Title: Chief Operating Officer

CONN LENDING, LLC,

a Delaware limited liability company

By: /s/ George Bchara

Name: George Bchara

Title: Executive Vice President and Chief Financial Officer

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

AGENT AND LENDERS:

JPMORGAN CHASE BANK, N.A.,

as Agent and a Lender

By: /s/ Andrew Rossman

Name: Andrew Rossman

Title: Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

MUFG UNION BANK, N.A.,
as a Lender

By: /s/ Nadia Mitevska
Name: Nadia Mitevska
Title: Director

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

REGIONS BANK,
as a Lender

By: /s/ Evie Krimm
Name: Evie Krimm
Title: Director

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

DEUTSCHE BANK AG NEW YORK BRANCH
as a Lender

By: /s/ Yumi Okabe
Name: Yumi Okabe
Title: Vice President

By: /s/ Michael Strobel
Name: Michael Strobel
Title: Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

BBVA USA, f/k/a COMPASS BANK,
as a Lender

By: /s/ Jason Nichols

Name: Jason Nichols

Title: Senior Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

ZIONS BANCORPORATION, N.A. dba AMEGY BANK,
as a Lender

By: /s/ Mario Gagetta

Name: Mario Gagetta

Title: Assistant Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

FIRST HORIZON BANK, formerly known as **FIRST
TENNESSEE BANK NATIONAL ASSOCIATION**,
as a Lender

By: /s/ Morgan Stanford

Name: Morgan Stanford

Title: Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as
successor to **MB FINANCIAL BANK, N.A.**,
as a Lender

By: /s/ Yash Shrimali

Name: Yash Shrimali

Title: Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

CATHAY BANK,
as a Lender

By: /s/ James Campbell
Name: James Campbell
Title: First Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

CITY NATIONAL BANK,
as a Lender

By: /s/ David Knoblauch

Name: David Knoblauch

Title: Senior Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

CITIZENS BANK, N.A.,
as a Lender

By: /s/ Richard Norberg
Name: Richard Norberg
Title: Vice President

THIRD AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AGREEMENT (CONN'S) SIGNATURE PAGE

EXHIBIT A

Amended Existing Loan Agreement

See attached.

FOURTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

Dated as of May 23, 2018

CONN'S, INC.,
as Parent and Guarantor

and

CONN APPLIANCES, INC.,
CONN CREDIT I, LP,
and
CONN CREDIT CORPORATION, INC.,
as Borrowers

CERTAIN FINANCIAL INSTITUTIONS,

as Lenders,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and Collateral Agent,

REGIONS BANK, and
MUFG UNION BANK, N.A.,
as Co-Syndication Agents,

J.P. MORGAN SECURITIES LLC,
REGIONS CAPITAL MARKETS, a division of REGIONS BANK,

and

MUFG UNION BANK, N.A.,

as Joint Lead Arrangers and Joint Bookrunners,

and

BBVA COMPASS,

as Documentation Agent

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FOURTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

THIS FOURTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT (this “Agreement”) is dated as of May 23, 2018, by and among **CONN’S, INC.**, a Delaware corporation, as parent and guarantor (“Parent”), **CONN APPLIANCES, INC.**, a Texas corporation (“CAI”), **CONN CREDIT I, LP**, a Texas limited partnership (“CCI”), and **CONN CREDIT CORPORATION, INC.**, a Texas corporation (“CCCI”), and together with CAI and CCI, each, a “Borrower” and collectively, the “Borrowers”), the financial institutions party to this Agreement from time to time as lenders (collectively, “Lenders”), and **JPMORGAN CHASE BANK, N.A.**, a national banking association (“JPM”) as successor to Bank of America, N.A. (“BAML” and BAML as resigning agent being referred to herein as “Resigning Agent”), in its capacity as Administrative Agent and Collateral Agent for the Lenders (in such capacity, “Agent”).

RECITALS:

WHEREAS, Borrowers, Agent and various lenders originally entered into that certain Loan and Security Agreement, dated as of August 14, 2008 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Original Loan Agreement”) and certain other loan documents relating to the same.

WHEREAS, Borrowers, Agent and various lenders amended and restated the Original Loan Agreement in its entirety and entered into that certain Amended and Restated Loan and Security Agreement, dated as of November 30, 2010 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “First Amended and Restated Loan Agreement”) and certain other loan documents relating to the same.

WHEREAS, Borrowers, Agent and various lenders amended and restated the First Amended and Restated Loan Agreement in its entirety and entered into that certain Second Amended and Restated Loan and Security Agreement, dated as of September 26, 2012 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Second Amended and Restated Loan Agreement”) and certain other loan documents relating to the same.

WHEREAS, Borrowers, Agent and various lenders, amended and restated the Second Amended and Restated Loan Agreement in its entirety and entered into that certain Third Amended and Restated Loan and Security Agreement, dated as of October 30, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Third Amended and Restated Loan Agreement”; and together with the Original Loan Agreement, First Amended and Restated Loan Agreement and Second Amended and Restated Loan Agreement, the “Existing Loan Agreement”) and certain other loan documents relating to the same.

WHEREAS, Borrowers have requested that Agent and Lenders amend and restate the Existing Loan Agreement in its entirety to, among other things, make available to Borrowers a revolving line of credit for loans and letters of credit in an aggregate amount not to exceed \$650,000,000, which extensions of credit Borrowers will use for the purposes permitted hereunder.

WHEREAS, Agent and Lenders have agreed to amend and restate the Existing Loan Agreement in its entirety in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, Lenders, Agent, Parent and Borrowers hereby agree to amend and restate the Existing Loan Agreement as follows:

Section 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1 **Definitions.** As used herein, the following terms have the meanings set forth below:

ABS Contract Balance: as of any date of determination, the Gross Contract Payments (less all unearned interest, fees and charges) as determined with respect to each Securitization Subsidiary.

ABS Contract Portfolio: portfolio of Contracts subject to the Existing Securitization Facility and any other Permitted ABS Transaction.

ABS Excluded Leverage Ratio: the ratio, determined as of the end of any Fiscal Quarter for Parent and its Subsidiaries, on a consolidated basis, of (a) the result of (x) all items that would be included as liabilities on a balance sheet in accordance with GAAP as of the last day of such Fiscal Quarter (excluding Debt resulting from the Existing Securitization Facility and any other Permitted ABS Transaction), minus (y) Qualified Cash as of such date of measurement, to (b) Tangible Net Worth as of the last day of such Fiscal Quarter.

ABS Qualified Cash: as of any date of determination, the aggregate amount of cash of Parent and its Subsidiaries that is restricted pursuant to the Existing Securitization Facility or any other Permitted ABS Transaction as required under the applicable documents setting forth the terms of the Existing Securitization Facility or any other Permitted ABS Transaction.

Acquisition: a transaction or series of transactions resulting in (a) the acquisition of a business, division or substantially all assets of a Person; (b) the acquisition of record or beneficial ownership of 50% or more of the Equity Interests of a Person (including, in any event, any Investment in (x) any Subsidiary which increases Parent's interest, directly or indirectly, in such Subsidiary or (y) any joint venture for the purpose of increasing Parent's interest (directly or indirectly) in such joint venture); or (c) the merger, consolidation or combination of a Borrower or Subsidiary with another Person.

Adjusted Tangible Assets: all assets of Parent and Borrowers on a consolidated basis, except (a) patents, copyrights, trademarks, trade names, franchises, goodwill, and other similar intangibles; (b) assets constituting intercompany Accounts; (c) assets located and notes and receivables due from obligors domiciled outside the United States of America or Canada; and (d) fixed assets to the extent of any write-up in the book value thereof.

Administrative Questionnaire: an Administrative Questionnaire in a form supplied by the Administrative Agent.

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

Agent: as defined in the Preamble to this Agreement.

Agent Indemnitees: Agent and its officers, directors, employees, Affiliates, agents and attorneys.

Agent Professionals: attorneys, accountants, appraisers, auditors, business valuation experts, environmental engineers or consultants, turnaround consultants, and other professionals and experts retained by Agent.

Agreement: as defined in the Preamble to this Agreement.

Allocable Amount: as defined in **Section 5.11.3(b)**.

Anti-Terrorism Law: any law relating to terrorism or money laundering, including the Patriot Act.

Applicable Law: all laws, rules, regulations and binding governmental guidelines applicable to the Person or matter in question, including all applicable statutory law, common law and equitable principles, as well as applicable provisions of constitutions, treaties, statutes, rules, regulations, orders and decrees of Governmental Authorities and all Consumer Finance Laws.

Applicable Margin: the margin set forth in the chart below, as determined by reference to the Leverage Ratio for the most recently ended Fiscal Quarter:

Level	Leverage Ratio	Base Rate	LIBOR
1	≤ 1.75 <u>2.23</u> x	1.50% <u>2.00%</u>	2.50% <u>3.00%</u>
2	> 1.75 <u>2.23</u> x ≤ 2.50 <u>2.98</u> x	1.75% <u>2.25%</u>	2.75% <u>3.25%</u>
3	> 2.50 <u>2.98</u> x ≤ 3.25 <u>3.73</u> x	2.00% <u>2.50%</u>	3.00% <u>3.50%</u>
4	> 3.25 <u>3.73</u> x	2.25% <u>2.75%</u>	3.25% <u>3.75%</u>

Changes in the Applicable Margin resulting from a change in the Leverage Ratio shall become effective on the first day of the calendar month following Agent's receipt of the financial statements pursuant to **Section 10.1.2(a)(i), (a)(ii) or (b)**, as applicable, and Compliance Certificate pursuant to **Section 10.1.2(d)** with respect thereto. If any financial statement or Compliance Certificate has not been delivered within the time periods specified herein, then the Applicable Margin shall be determined as if Level 4 were applicable, from such day until the first day of the calendar month following the date Borrower delivers such financial statements and the related Compliance Certificate.

Approved Electronic Platform: as defined in **Section 14.3.3**.

Approved Fund: any entity that is owned or Controlled by a Lender or Affiliate of a Lender, and is engaged in making or investing in commercial loans in its ordinary course of activities.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition of Property of an Obligor, including a disposition of Property in connection with a sale-leaseback transaction or synthetic lease and including any disposition of property to a Delaware Divided LLC pursuant to a Delaware LLC Division.

Assignment and Acceptance: an assignment agreement between a Lender and Eligible Assignee, in the form of **Exhibit B** or otherwise satisfactory to Agent and, to the extent the Borrowers' consent in respect of the applicable assignment is necessary, the Borrower Agent.

Availability: the Borrowing Base minus Revolver Usage.

Average Quarterly Availability Percentage: as of any date of measurement, a fraction (expressed as a percentage), (a) the numerator of which is the average daily Availability for the Fiscal Quarter immediately preceding such date or such other period of days as the context may require and (b) the denominator of which is the average Borrowing Base for the Fiscal Quarter immediately preceding such date or such other period of days as the context may require.

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

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

Bank Product: any of the following products or services extended to Parent, a Borrower or any Subsidiary of a Borrower: (a) Cash Management Services; (b) products under Hedging Agreements; (c) commercial credit card and merchant card services; and (d) leases and other banking products or services other than Letters of Credit, including the Existing Bank Products.

Bank Product Reserve: the aggregate amount of reserves established by Agent from time to time in its Permitted Discretion with respect to Secured Bank Product Obligations.

Bankruptcy Code: Title 11 of the United States Code.

Base Rate: for any day, a per annum rate equal to the greatest of (a) the Prime Rate for such day; (b) the Federal Funds Effective Rate for such day, plus 0.50%; or (c) LIBOR for a 30-day interest period as of such day, plus

1.0%; provided, that in no event shall the Base Rate be less than zero. If the Base Rate is being used as an alternate rate of interest pursuant to **Section 3.6(b)** hereof, then the Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above.

Base Rate Revolver Loan: a Revolver Loan that bears interest based on the Base Rate.

Beneficial Ownership Certification: a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

Beneficial Ownership Regulation: 31 C.F.R. § 1010.230.

Benefit Plan: 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 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.”

Board of Governors: the Board of Governors of the Federal Reserve System.

Borrowed Money: with respect to any Obligor, without duplication, its (a) Debt of the type set forth in clauses (a), (b) (in respect of Debt of the type set forth in clauses (a) and (d) of the definition of Debt and clauses (b) and (c) of this definition of Borrowed Money) and (d) of the definition of Debt; (b) Capital Leases; and (c) letter of credit reimbursement obligations, in each case other than obligations owing to any Flooring Lender.

Borrower: as defined in the Preamble to this Agreement.

Borrower Agent: as defined in **Section 4.4**.

Borrower Materials: Borrowing Base Reports, Compliance Certificates and other information, reports, financial statements and other materials delivered by Borrowers hereunder, as well as other Reports and information provided by Agent to Lenders.

Borrowing: a group of Revolver Loans that are made or converted together on the same day and have the same interest option and, if applicable, Interest Period.

Borrowing Base: on any date of determination, an amount equal to the lesser of (a) the aggregate amount of Revolver Commitments; or (b) the sum of the CCI Borrowing Base, plus the CAI Borrowing Base.

Notwithstanding anything to the contrary in this Agreement, (a) no Reserves shall be established or increased except upon not less than three (3) Business Days’ (or shorter period as agreed to by Borrower Agent) prior written notice to Borrower Agent, which notice shall include a reasonably detailed description of such Reserve being established (during which period (i) Agent shall, if requested, discuss any such Reserve or increase with Borrower Agent and (ii) Borrower Agent may take such action as may be required so that the event, condition or matter that is the basis for such Reserve or increase thereto no longer exists or exists in a manner that would result in the establishment of a lower Reserve or result in a lesser increase thereto, in a manner and to the extent reasonably satisfactory to Agent), and (b) the amount of any Reserve established by Agent, and any increase in the amount of any Reserve, shall have a reasonable relationship to the event, condition or other matter that is the basis for such Reserve or such increase. Notwithstanding clause (a) of the preceding sentence, (i) changes to the Reserves solely for purposes of correcting mathematical or clerical errors shall not be subject to such notice period, (ii) no Default or Event of Default shall be deemed to result from the imposition of any Reserve for a period of three (3) Business Days (or shorter period as agreed to by Borrower Agent) following notice to Borrower Agent and (iii) Borrowers shall not request any Revolver Loans or Letters of Credit and Agent, Lenders and Issuing Bank shall not be required to fund any Revolver Loan or issue any Letters of Credit hereunder during such period of three (3) Business Days (or shorter period as agreed to by Borrower Agent).

Borrowing Base Report: a report of the Borrowing Base by Borrowers, in form satisfactory to Agent.

Business Day: any day other than a Saturday, Sunday or any other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, Illinois and Texas, and if such day relates to a LIBOR Revolver Loan, any such day on which dealings in Dollar deposits are conducted between banks in the London interbank Eurodollar market.

CAI: as defined in the Preamble to this Agreement.

CAI Availability Reserve: the sum of (without duplication when taken into account with the CCI Availability Reserve, the Credit Card Account Formula Amount, the Inventory Formula Amount, the Contract Advance Rate Amount or any of their respective component definitions) (a) the Inventory Reserve; (b) the Rent and Charges Reserve; (c) the Bank Product Reserve; (d) the Sales Tax Reserve; (e) the Gift Card Reserve; (f) the Customer Deposit Reserve; (g) the aggregate amount of liabilities secured by Liens upon Collateral included in the CAI Borrowing Base that are senior to Agent's Liens (but imposition of any such reserve shall not cure an Event of Default, if any, arising therefrom); and (h) such additional reserves, in such amounts and with respect to such matters, as Agent in its Permitted Discretion may elect to impose from time to time.

CAI Borrowing Base: the sum of the Credit Card Account Formula Amount, plus the Inventory Formula Amount, plus the Contract Advance Rate Amount applicable to CAI (without duplication when taken into account with the Contract Advance Rate Amount applicable to CCI), minus any CAI Availability Reserve.

CAIC: CAI Credit Insurance Agency, Inc., a Louisiana corporation.

CAIH: CAI Holding, LLC, a Delaware limited liability company.

CAI Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans under the CAI Borrowing Base; plus (b) the aggregate Stated Amount of outstanding Letters of Credit under the CAI Borrowing Base, except to the extent Cash Collateralized.

Capital Expenditures: for any period of calculation with respect to Parent and its Subsidiaries, the aggregate of all expenditures incurred by Parent and its Subsidiaries during such period that, in accordance with GAAP, are required to be classified as capital expenditures, including Capital Leases incurred; provided that the following items shall be excluded:

(a) the purchase price of fixed or capital assets made with the proceeds of any combination of (A) used or surplus fixed or capital assets traded in at the time of such purchase and (B) the proceeds of a concurrent sale of used or surplus fixed or capital assets;

(b) expenditures made in connection with the replacement, substitution, restoration, upgrade, development or repair of assets to the extent financed with (x) insurance or settlement proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored, upgraded, developed or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced;

(c) the purchase price of assets that are purchased simultaneously with the trade-in of existing assets to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such property for the property being traded in at such time;

(d) the purchase price of property, plant or equipment or software in an amount equal to the identifiable proceeds of Asset Dispositions of fixed or capital assets;

(e) expenditures that are accounted for as capital expenditures by Parent and its Subsidiaries that are actually paid for, or reimbursed to Parent and its Subsidiaries in cash or cash equivalents, by a Person other than Parent and its Subsidiaries;

(f) expenditures to the extent constituting any portion of an Acquisition (or Investment permitted hereunder);

(g) any capitalized interest expense reflected on a consolidated balance sheet of Parent and its Subsidiaries;

(h) expenditures relating to the construction, acquisition, replacement, reconstruction, development, refurbishment, renovation or improvement of any property which has been transferred to a Person other than Parent and its Subsidiaries during the same Fiscal Year in which such expenditures were made pursuant to a sale and leaseback transaction to the extent of the cash proceeds received by Parent and its Subsidiaries pursuant to such Sale and Leaseback Transaction; or

(i) expenditures financed with the proceeds of an issuance of Equity Interests of Parent so long as the proceeds of such issuance are received within 60 days of the applicable expenditure.

Capital Lease: any lease required to be capitalized for financial reporting purposes in accordance with GAAP.

Capped Synergies: as defined in “Pro Forma Basis.”

Cash Collateral: cash delivered to Agent to Cash Collateralize any Obligations, and all interest, dividends, earnings and other proceeds earned thereon.

Cash Collateralize: the delivery of cash to Agent, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, (i) if prior to the Revolver Termination Date, 100% of the aggregate LC Obligations and (ii) if on or after the Revolver Termination Date, 102% of the aggregate LC Obligations; (b) with respect to the Fronting Exposure of any Defaulting Lender (other than LC Obligations), 100% of the aggregate Fronting Exposure of such Defaulting Lender; (c) in the case of **Section 5.2**, 100% of the outstanding LC Obligations; and (d) with respect to other Obligations (including Secured Bank Product Obligations), Agent’s good faith estimate of the amount due or to become due, including all fees and other amounts relating to such Obligations. “Cash Collateralization” has a correlative meaning.

Cash Equivalents: (a) marketable obligations issued or unconditionally guaranteed by, and backed by the full faith and credit of, the United States government, maturing within 12 months of the date of acquisition; (b) certificates of deposit, time deposits and bankers’ acceptances maturing within 24 months of the date of acquisition, and overnight bank deposits, in each case which are issued by JPM or a commercial bank organized under the laws of the United States or any state or district thereof, rated A 1 (or better) by S&P or P-1 (or better) by Moody’s at the time of acquisition, and (unless issued by a Lender) not subject to offset rights; (c) repurchase obligations with a term of not more than 30 days for underlying investments of the types described in clauses (a) and (b) entered into with any bank described in clause (b); (d) commercial paper issued by JPM or rated A 1 (or better) by S&P or P-1 (or better) by Moody’s, and maturing within 24 months of the date of acquisition; and (e) shares of any money market fund that has substantially all of its assets invested continuously in the types of investments referred to above, has net assets of at least \$500,000,000 and has the highest rating obtainable from either Moody’s or S&P.

Cash Management Services: services relating to operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

Cash Recovery Percent: the percent, calculated as of the end of the last day of each month, equal to the amount determined by dividing (a) the actual Gross Cash Collections received by Borrowers from payments made by Contract Debtors during the previous three (3) months by (b) the sum of the Gross Contract Payments outstanding as of the beginning of the first day of each of the previous three (3) months. The Cash Recovery Percent shall be calculated based on the Managed Contract Portfolio; provided however, that if for a period of 18 months after the closing of any Permitted ABS Transaction that is not a “revolving” transaction entered into after the Closing Date at least 85% of the value of all Contracts of Borrowers as of any Cut-Off Date of such Permitted ABS Transaction are not transferred to

such Permitted ABS Transaction, then the Cash Recovery Percent shall be determined based on the lower of (i) the Cash Recovery Percent determined based on the Owned Contract Portfolio, and (ii) the Cash Recovery Percent determined based on the Managed Contract Portfolio.

CCCI: as defined in the Preamble to this Agreement.

CCI: as defined in the Preamble to this Agreement.

CCI Availability Reserve: the sum of (without duplication when taken into account with the CAI Availability Reserve, the Contract Advance Rate Amount or ~~its~~any of their respective component definitions) (a) the Rent and Charges Reserve; (b) the Bank Product Reserve; (c) the Sales Tax Reserve; (d) the aggregate amount of liabilities secured by Liens upon Collateral included in the CCI Borrowing Base that are senior to Agent's Liens (but imposition of any such reserve shall not cure an Event of Default, if any, arising therefrom); and (e) such additional reserves, in such amounts and with respect to such matters, as Agent in its Permitted Discretion may elect to impose from time to time.

CCI Borrowing Base: the sum of the Contract Advance Rate Amount applicable to CCI (without duplication when taken into account with the Contract Advance Rate Amount applicable to CAI), minus any CCI Availability Reserve.

CCI Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans under the CCI Borrowing Base; plus (b) the aggregate Stated Amount of outstanding Letters of Credit under the CCI Borrowing Base, except to the extent Cash Collateralized.

CERCLA: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

Change in Law: the occurrence, after the date hereof, of (a) the adoption, taking effect or phasing in of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof; or (c) the making, issuance or application of any request, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided, that "Change in Law" shall include, regardless of the date enacted, adopted or issued, all requests, rules, guidelines, requirements or directives (i) under or relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or (ii) promulgated pursuant to Basel III by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any similar authority) or any other Governmental Authority.

Change of Control: (a) Parent ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests in CAI; (b) CAI ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests of CCI and CCCI; (c) ~~persons~~Persons who were (i) directors of Parent on the Closing Date, (ii) nominated, appointed or approved for consideration for election by the board of directors of Parent or (iii) appointed or elected by directors who were directors of Parent on the Closing Date or were nominated, appointed, or approved as provided in clause (ii) above, cease to occupy a majority of the seats (excluding vacant seats) on the board of directors of Parent; or (d) all or substantially all of a Borrower's assets are sold or transferred, other than as permitted pursuant to **Section 10.2.9**.

Claims: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, reasonable attorneys' fees and Extraordinary Expenses (but limited, in the case of attorneys' fees and expenses, to the reasonable and documented out-of-pocket fees, charges and disbursements of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent and, in the case of an actual or potential conflict of interest, one (1) additional firm of lead counsel to all affected Indemnitees, taken as a whole and, in each case, without duplication of attorneys' fees and expenses included in the definition of Claims) at any time (including after Full Payment of the Obligations, or replacement of Agent, or any Lender) incurred by any Indemnitee or asserted against any Indemnitee by any Obligor or other Person in any way relating to (a) any Revolver Loans, Letters of Credit, Loan Documents, Borrower Materials, or the use

thereof or transactions relating thereto, (b) any action taken or omitted in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto, or (f) failure by any Obligor (directly or indirectly), Credit and Collection Guideline, Contract or Third Party Contract to comply with or otherwise satisfy any Consumer Finance Law in any respect.

CLL: Conn Lending, LLC, a Delaware limited liability company.

Closing Date: as defined in **Section 6.1**.

Code: the Internal Revenue Code of 1986.

Collateral: all Property described in **Section 7.1**, all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations; provided that “Collateral” shall not include any Excluded Collateral.

Collateral Adjustment Percentage: calculated as of the first day of each month, the sum of the Past Due Percent and the Net Charge-Off Percent. The Collateral Adjustment Percentage shall be calculated based on the higher of (x) the Collateral Adjustment Percentage determined based on the Owned Contract Portfolio, and (y) the Collateral Adjustment Percentage determined based on the Managed Contract Portfolio.

Commodity Exchange Act: the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

Compliance Certificate: a certificate in the form of **Exhibit D** in which Borrowers certify compliance with **Sections 10.2.3** and **10.3** and calculate the applicable level for the Applicable Margin.

Confidential Information: as defined in **Section 10.2.1(c)**.

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

Consumer Finance Laws: all laws, rules, regulations, and binding governmental guidelines of any kind relating to the extension, securing or administration of consumer credit, whether relating to secured or unsecured credit, real or personal security, advertising, solicitation, marketing, underwriting, origination, documentation, brokering, purchase, assignment, administration, servicing, collection or other activities relating thereto, in each case applicable to the Person, including any of the foregoing relating to consumer protection, usury, privacy, discriminatory or predatory practices, or unfair, deceptive or abusive acts or practices, and specifically including the Federal Consumer Credit Protection Act, Federal Fair Credit Reporting Act, Fair and Accurate Credit Transactions Act, Equal Credit Opportunity Act, Fair Debt Collections Practices Act, RESPA, Magnuson-Moss Warranty Act, Servicemember’s Civil Relief Act, Gramm-Leach-Bliley Act, Dodd-Frank Wall Street Reform and Consumer Protection Act, Federal Trade Commission Act, Consumer Financial Protection Bureau Regulations B, M, N, O P, V, X and Z, and Federal Reserve Board Regulations B and Z.

Contingent Obligation: any obligation of a Person (without duplication) arising from a guaranty, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation (“primary obligations”) of another obligor (“primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement, co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation

against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

Contract Advance Rate Amount: 80% of Net Eligible Contract Payments; provided, that such percentage shall be subject to reduction as of the first day of each month, based on the then existing Collateral Adjustment Percentage and Cash Recovery Percent (whichever results in a lower percentage), as follows:

(a) the percentage above shall be reduced by 1% for each whole percentage or fraction thereof that the Collateral Adjustment Percentage exceeds 22%; and

(b) the percentage above shall be reduced by 1% for each incremental range of the Cash Recovery Percent, beginning with 4.79%, as illustrated by the table set forth below:

<u>Cash Recovery Percent</u>	<u>Contract Advance Rate Amount</u>
Less than or equal to 4.79% but greater than 4.74%	79% of Net Eligible Contract Payments
Less than or equal to 4.74% but greater than 4.69%	78% of Net Eligible Contract Payments
Less than or equal to 4.69% but greater than 4.64%	77% of Net Eligible Contract Payments
Less than or equal to 4.64% but greater than 4.59%	76% of Net Eligible Contract Payments
Less than or equal to 4.59% but greater than 4.54%	75% of Net Eligible Contract Payments
Less than or equal to 4.54% but greater than 4.49%	74% of Net Eligible Contract Payments
Less than or equal to 4.49% but greater than 4.44%	73% of Net Eligible Contract Payments
Less than or equal to 4.44% but greater than 4.39%	72% of Net Eligible Contract Payments
Less than or equal to 4.39% but greater than 4.34%	71% of Net Eligible Contract Payments
Less than or equal to 4.34% but greater than 4.29%	70% of Net Eligible Contract Payments
Less than or equal to 4.29% but greater than 4.25%	69% of Net Eligible Contract Payments
<i>The Cash Recovery Percent table shall continue to be reduced in exact increments as set forth above</i>	<i>The Contract Advance Rate Amount table shall continue to be reduced by 1% for each incremental reduction of the Cash Recovery Percent</i>

Notwithstanding the above, the portion of the Contract Advance Rate Amount supported by Eligible Revolving Contracts shall at no time exceed 10% of the CCI Borrowing Base.

Contract Debtor: each Person who is obligated to a Borrower to perform any duty under or to make any payment pursuant to the terms of a Contract.

Contracts: all of each Borrower's now owned and hereafter acquired loan agreements, accounts, revolving credit agreements, retail installment sale contracts, consumer loans, Instruments, notes, documents, chattel paper, and all other forms of obligations owing to such Borrower, including any collateral for any of the foregoing, including all rights under any and all security documents and merchandise returned to or repossessed by such Borrower, in each case excluding any Third Party Contract.

Control: the possession, directly or indirectly, of the power to direct or cause the direction of a Person's management or policies, whether through the ability to exercise voting power, by contract or otherwise.

Covenant Relief Period: the period commencing on April 30, 2020 and continuing up to and including the earlier of (a) the date on which Borrowers deliver financial statements and a Compliance Certificate in accordance with clauses (a)(i) and (d) of Section 10.1.2 reflecting compliance with Section 10.3 for the period ending January 31, 2021 and (b) the date which is 10 Business Days after Agent receives written notice from Borrower Agent electing to terminate the Covenant Relief Period.

Credit and Collection Guidelines: Borrowers' guidelines which state ~~in~~ the credit criteria used by Borrowers in extending credit to Contract Debtors and the collection criteria used by Borrowers in collection of amounts due from Contract Debtors.

Credit Card Account: Accounts together with all income, payments and proceeds thereof, owed by a Credit Card Issuer or Credit Card Processor to a Borrower resulting from charges by a retail customer of a Borrower on credit or debit cards in connection with the sale of goods by a Borrower, or services performed by a Borrower, in each case in the Ordinary Course of Business.

Credit Card Account Formula Amount: 90% of the Value of Eligible Credit Card Accounts.

Credit Card Agreements: with respect to each Borrower, all agreements now or hereafter entered into by such Borrower with any Credit Card Issuer or any Credit Card Processor.

Credit Card Issuers: any ~~person~~Person (other than a Borrower) who issues or whose members issue credit cards, including, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., VISA, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards.

Credit Card Processor Notifications: with respect to each Borrower, individually and collectively, the letter agreements executed by such Borrower and delivered to such Borrower's Credit Card Issuers or Credit Card Processors who are parties to Credit Card Agreements, acknowledging Agent's first priority Lien in the monies due and to become due to such Borrower under the Credit Card Agreements of such Borrower, and instructing such Credit Card Issuers or Credit Card Processors to transfer all such amounts to the Dominion Accounts.

Credit Card Processors: with respect to each Borrower, any servicing or processing agent or any financial intermediary who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to any of such Borrower's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

Curative Equity: common equity contributions made to Parent which Parent contributes as additional common equity contributions to any Borrower and which is designated "Curative Equity" by Borrower Agent under **Section 10.4** at the time it is contributed.

Customer Deposit Reserve: as of any measurement date, a reserve equal to the aggregate amount of deposits paid by the customers of any Borrower for the purchase of goods.

Cut-Off Date: with respect to any pool of Contracts to be transferred to a Securitization Subsidiary pursuant to a Permitted ABS Transaction on any date, the date that is the latest origination date of any Contract in such pool.

CWA: the Clean Water Act (33 U.S.C. §§ 1251 et seq.).

Debt: as to any Person at a particular time, without duplication, all of the following, to the extent included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount of all Contingent Obligations of such Person in respect of the Debt of any other Person which are monetary obligations once they become primary obligations;
- (c) net obligations of such Person under any Hedging Agreement;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued liabilities, in each case in the Ordinary Course of Business and (ii) earn out obligations until such obligations appear in the liabilities section of the balance sheet);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse but, in the case of limited recourse indebtedness, the amount of such Debt shall be deemed equal to the lesser of aggregate unpaid amount of such Debt and the fair market value (as reasonably estimated by the Borrower Agent) of the encumbered property;

(f) all obligations of such Person in respect of Capital Leases; and

(g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person or any warrant, right or option to acquire such Equity Interest, in each case prior to the date that is 91 days later than the Revolver Termination Date (as in effect on the date such Equity Interest, warrant right or option is issued) and other than solely as a result of a change of control or asset sale, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends.

For all purposes hereof, (i) the Debt of any Person shall include the Debt of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Debt is expressly made non-recourse to such Person and (ii) Debt shall not include (A) amounts owed to Flooring Lenders on account of flooring arrangements paid in the Ordinary Course of Business or (B) Permitted Convertible Notes Hedging Agreements. The amount of any net obligation under any Hedging Agreement on any date shall be deemed to be the swap termination value thereof as of such date.

Default: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate: for any Obligation under the Loan Documents (including, to the extent permitted by law, interest not paid when due), 2% plus the highest level of interest set forth in the Applicable Margin grid.

Defaulting Lender: any Lender that (a) has failed to comply with its funding obligations hereunder, and such failure is not cured within two Business Days; (b) has notified Agent or any Borrower that such Lender does not intend to comply with its funding obligations hereunder or generally under other credit facilities, or has made a public statement to that effect; (c) has failed, within three Business Days following request by Agent or any Borrower, to confirm in a manner satisfactory to Agent and Borrowers that such Lender will comply with its prospective funding obligations hereunder; or (d) has, or has a direct or indirect parent company that has, become the subject of an Insolvency Proceeding (including reorganization, liquidation, or appointment of a receiver, custodian, administrator or similar Person by the Federal Deposit Insurance Corporation or any other regulatory authority) or Bail-In Action; provided, that a Lender shall not be a Defaulting Lender solely by virtue of a Governmental Authority's ownership of an equity interest in such Lender or parent company unless the ownership provides immunity for such Lender from jurisdiction of courts within the United States or from enforcement of judgments or writs of attachment on its assets, or permits such Lender or Governmental Authority to repudiate, disavow, disaffirm or otherwise to reject any contracts or agreements made with such Lender.

Delaware Divided LLC: ~~means~~ any Delaware LLC which has been formed upon the consummation of a Delaware LLC Division.

Delaware LLC: ~~means~~ any limited liability company organized under the laws of the State of Delaware.

Delaware LLC Division: ~~means~~ the statutory division of any Delaware LLC into two or more Delaware LLCs pursuant to Section 18-217 of the Delaware Limited Liability Company Act.

Deposit Account Control Agreements: the deposit account control agreements executed by each institution maintaining a Deposit Account for a Borrower, in favor of Agent as security for the Obligations (other than, for the avoidance of doubt, Excluded Accounts).

Designated Jurisdiction: a country or territory that is the target of a Sanction.

Distribution: (a) any payment of a distribution, interest or dividend on any Equity Interest and (b) any purchase, redemption, or other acquisition or retirement for value of any Equity Interest, excluding any distribution related to equity compensation plans of Parent and its Subsidiaries.

Dollars: lawful money of the United States.

Dominion Accounts: special accounts established by Borrowers at JPM, any Lender or other banks reasonably acceptable to Agent, over which Agent has “springing” exclusive control for withdrawal purposes.

Dominion Trigger Period: the period (a) commencing on the day that (i) an Event of Default occurs; (ii) average Availability during any month (as reflected in the Loan Account) is less than 10% of the Borrowing Base; or (iii) Availability (as reflected in the Loan Account) is at any time less than 7.5% of the Borrowing Base, and (b) ending on the day on which, during the preceding 60 consecutive days, (x) no Event of Default has existed, (y) average Availability during any month during such period (as reflected in the Loan Account) has at all times been greater than 12.5% of the Borrowing Base.

EBITDA: for any period of measurement, determined on a consolidated basis for Parent and its Subsidiaries derived from financial statements prepared in accordance with GAAP, net income, calculated before

(a) interest expense,

(b) provision for taxes, including, without limitation, foreign, federal, state, local, franchise, excise and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations, and including pursuant to any tax sharing arrangements),

(c) depreciation and amortization expense,

(d) stock based compensation,

(e) gains or losses arising from the sale of assets (other than the bulk sale of Contracts) outside the Ordinary Course of Business,

(f) any extraordinary, unusual or non-recurring gains or losses (in each case, to the extent included in determining net income and including any book loss reserve with respect to Contracts), provided that the aggregate amount added back to EBITDA pursuant to this clause (f), when combined with clause (m) below and the Capped Synergies, in any period shall not exceed 20% of the EBITDA for such period (prior to giving effect to any such add back),

(g) any non-cash asset write-offs relating to construction in process,

(h) any other non-cash charges, losses or expenses (other than the book loss reserve with respect to Contracts),

(i) [reserved],

(j) [reserved],

(k) any increases in loss reserve resulting solely from a Borrower's repurchase of Contracts subject to a Permitted ABS Transaction occurring after such Permitted ABS Transaction has been deconsolidated from Parent and its Subsidiaries financial statements prepared in accordance with GAAP,

(l) any gain or loss from the Ordinary Course of Business sale of residual interests of cash flows subject to a Permitted ABS Transaction,

(m) business optimization expenses and restructuring charges and reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment costs, excess pension charges, contract termination costs (including future lease commitments) and costs to consolidate facilities and relocate employees); provided that with respect to each business optimization expense or restructuring charge or reserve, Borrower Agent shall have delivered to Agent a certificate of a Senior Officer of Borrower Agent specifying and quantifying such expense, charge or reserve and stating that such expense, charge or reserve is a business optimization expense or restructuring charge or reserve, as the case may be; provided further that the aggregate amount added back to EBITDA pursuant to this clause (m), when combined with clause (f) above and the Capped Synergies, in any period shall not exceed 20% of the EBITDA for such period (prior to giving effect to any such add back),

(n) fees, costs and expenses incurred directly in connection with any transaction, including any equity issuance or offering, Investment, acquisition, disposition, recapitalization or incurrence, repayment, amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extension and refinancing of Debt, including such fees, costs and expenses related to this Agreement, any Existing Securitization Facility, any Permitted Securitization Facility, the Existing HY Notes, any Permitted Additional HY Notes, any Permitted Convertible Notes or any Refinancing Debt) (in each case, (A) not prohibited under this Agreement and (B) whether or not consummated) during such period,

(o) to the extent reimbursable by third parties pursuant to indemnification provisions, other transaction fees, costs and expenses, provided that Borrower in good faith expects to receive reimbursement for such fees, costs and expenses within the next 4 Fiscal Quarters,

(p) costs of legal settlement, fines, judgments or orders,

(q) any unrealized losses in the fair market value of any Hedging Agreements,

(r) (A) any charges or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, pension plan, any stock subscription or shareholder agreement or any distributor equity plan or agreement and (B) any charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of equity interests held by management, in each case under this clause (B), to the extent such charges, costs, expenses, accruals or reserves are funded with the net cash proceeds of any issuance of Equity Interests, and

(s) the proceeds of business interruption insurance, in an amount not to exceed the earnings for the applicable period that such proceeds are intended to replace; provided that Borrower in good faith expects to receive such business interruption proceeds within the next 4 Fiscal Quarters.

EBITDA Loss Reserve: at any date is the sum of (i) Net Charge-Offs of Parent and its Subsidiaries for the 12-month period ending on the measurement date, plus (ii) the positive net change, measured quarterly as compared to the prior quarter, in Net Balances over 180 days past due of Parent and its Subsidiaries for the period ending on the measurement date. EBITDA Loss Reserve shall be calculated based on the Managed Contract Portfolio.

EBITDA Loss Reserve Shortfall: an amount equal to (if a positive result) the difference between (a) the EBITDA Loss Reserve measured as of the end of any Fiscal Quarter or such other determination date, minus (b) Parent and its Subsidiaries' recorded loss reserve measured as of the end of the same Fiscal Quarter or such other determination date.

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

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

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

Electronic System: any electronic system, including e-mail, e-fax, web portal access for such Borrower and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted Agent or any Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

Eligible Assignee: (a) a Lender, an Affiliate of a Lender or an Approved Fund; (b) an assignee approved by Borrower Agent (which approval shall not be unreasonably withheld or delayed) and Agent; or (c) during an Event of Default, acceptable to Agent in its discretion.

Eligible Contracts: Contracts fulfilling the following requirements:

- (a) such Contract is owned by a Borrower and such Borrower has good and marketable title to such Contract;
- (b) the Contract complies in all material respects with all of Borrowers' warranties and representations contained herein;
- (c) no payment due under the Contract is more than 60 days contractually delinquent;
- (d) no Borrower has during the term of any Contract granted to the Contract Debtor more than 3 extensions of time (each no longer than 60 days) for the payment of any sum due under the Contract;
- (e) the Contract or payments due thereunder are not subject to any defense, counterclaim, offset, discount, or allowance other than discounts provided in connection with promotional credit, such as same as cash offerings or deferred interest programs (to the extent of such defense, counterclaim, offset, discount, or allowance);
- (f) the terms of the Contract and all related documents and Instruments comply in all respects with all Requirement of Law;
- (g) the Contract Debtor is not an Affiliate or an employee of an Obligor;
- (h) the Contract (i) conforms to the Credit and Collection Guidelines in all material respects and (ii) has conformed at the time of origination in all material respects to Borrowers' then-applicable underwriting standards (taking into account the permissible exceptions therein);
- (i) the Contract Debtor is not subject to an active or pending Insolvency Proceeding under federal law or any similar proceeding under state law;
- (j) the first scheduled payment pursuant to the terms of the Contract is, or was, due within 45 days following the execution of the Contract and all other payments are scheduled to be made on the same date of each month thereafter;
- (k) the payment schedule for such Contract is fully amortizing on a monthly basis;

(l) with respect to installment Contracts only, the original term of the Contract is not more than 48 months;

(m) repayment of the Contract is secured by a first priority interest in any merchandise sold in connection therewith, the merchandise subject to such Contract has been delivered and such merchandise has not been repossessed by a Borrower or returned by the Contract Debtor to a Borrower;

(n) to the extent that the balance of the Contract includes sums representing the financing of “service maintenance plans,” such plans are in compliance with all applicable Consumer Finance Laws, including any and all special insurance laws relating thereto;

(o) the Contract is not a Modified Contract;

(p) the Contract is originated or acquired in the Ordinary Course of Business;

(q) Agent has a first priority perfected Lien in the Contract;

Notwithstanding the above, Eligible Contracts shall not include Contracts which do not satisfy other criteria determined by Agent in its Permitted Discretion.

Eligible Credit Card Accounts: Credit Card Accounts fulfilling the following requirements:

(a) such Credit Card Account is owned by a Borrower and such Borrower has good and marketable title to such Credit Card Account;

(b) such Credit Card Account constitutes a “Payment Intangible” or an “Account” (as defined in the UCC) and such Credit Card Account has not been outstanding for more than 5 Business Days;

(c) the Credit Card Issuer or Credit Card Processor of the applicable credit card with respect to such Credit Card Account is not the subject of any bankruptcy or insolvency proceedings;

(d) such Credit Card Account is a valid, legally enforceable obligation of the applicable issuer with respect thereto;

(e) such Credit Card Account is subject to a properly perfected first priority Lien in favor of Agent (it being the intent that chargebacks in the ordinary course by the Credit Card Processor shall not be deemed violative of this clause);

(f) the Credit Card Account conforms to all representations, warranties or other provisions in the Loan Documents relating to Credit Card ~~Account~~Accounts;

(g) such Credit Card Account is owed by a Person that has executed a Credit Card Processor Notification;

(h) such Credit Card Account is not evidenced by “chattel paper” or an “instrument” of any kind unless such “chattel paper” or “instrument” is in the possession of Agent, and to the extent necessary or appropriate, endorsed to Agent;

(i) such Credit Card Account indicates no Person other than a Borrower as payee or remittance party;

(j) such Credit Card Account has been earned and represents the bona fide amounts due to a Borrower from a Credit Card Processor and/or Credit Card Issuer, and in each case originated in the Ordinary Course of Business;

(k) such Credit Card Account has not been disputed, is without recourse, and with respect to which no claim, counterclaim, offset, or chargeback has been asserted (to the extent of such claim, counterclaim, offset, or chargeback); or

Notwithstanding the above, Eligible Credit Card Accounts shall not include Credit Card Accounts which do not satisfy other criteria determined by Agent in its Permitted Discretion.

Eligible Inventory: Inventory fulfilling the following requirements:

- (a) such Inventory is finished goods or raw materials, and not work-in-process, packaging or shipping materials, labels, samples, bags, replacement parts or manufacturing supplies;
- (b) such Inventory is neither held on consignment, nor subject to any deposit or down payment;
- (c) such Inventory is in new and saleable condition and is not damaged, defective, shopworn or otherwise unfit for sale;
- (d) is not slow-moving, obsolete or unmerchantable, and does not constitute returned or repossessed goods (in each case, without duplication of items included in the determined NOLV Percentage or Inventory reserve);
- (e) such Inventory meets all standards imposed by any Governmental Authority, has not been acquired from a Person subject to any Sanction or on any specially designated nationals list maintained by OFAC, and does not constitute hazardous materials under any Environmental Law;
- (f) such Inventory conforms with the covenants and representations herein;
- (g) such Inventory is subject to Agent's duly perfected, first priority Lien, and no other Lien other than Permitted Liens (and is not subject to any warehouse receipt or other negotiable Document in which Agent does not have a first priority Lien);
- (h) such Inventory is within the continental United States, is not in transit (except between locations of Borrowers), is not consigned to any Person and is not located in a clearance center or service center;
- (i) such Inventory is not subject to any License or other arrangement that restricts such Borrower's or Agent's right to dispose of such Inventory, unless Agent has received an appropriate Lien Waiver;
- (j) such Inventory is not located on leased premises or in the possession of a warehouseman, processor, repairman, mechanic, shipper, freight forwarder or other Person, unless the lessor or such Person has delivered a Lien Waiver or an appropriate Rent and Charges Reserve has been established as set forth in **Section 6.4.1**;
- (k) such Inventory is reported net of shrinkage accrual;
- (l) such Inventory is reflected in the details of a current perpetual inventory report of Borrowers;
- (m) such Inventory is insured in compliance with the provisions of **Section 8.7.2** hereof; and

Notwithstanding the above, Eligible Inventory shall not include Inventory which do not satisfy other criteria determined by Agent in its Permitted Discretion.

Eligible Revolving Contract: Eligible Contract under which the applicable Contract Debtor may borrow, repay and re-borrow up to the credit limit thereunder.

Enforcement Action: any action to enforce any Obligations (other than Secured Bank Product Obligations) or Loan Documents or to exercise any rights or remedies relating to any Collateral, whether by judicial action, self-help,

notification of Account Debtors, setoff or recoupment, credit bid, deed in lieu of foreclosure, action in an Insolvency Proceeding or otherwise.

Environmental Laws: Applicable Laws (including programs, permits and guidance promulgated by regulators) relating to public health in respect of exposure to hazardous materials (other than occupational safety and health regulated by OSHA) or the protection or pollution of the environment, including CERCLA, RCRA and CWA.

Environmental Notice: a written notice from any Governmental Authority or other Person of any possible noncompliance with, investigation of a possible violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, environmental pollution or hazardous materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

Environmental Release: a release as defined in CERCLA or under any other Environmental Law.

Equity Interest: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

Equity Interest Pledge Agreement: a pledge agreement, in form and substance satisfactory to Agent, executed by Parent, CAIH and CLL, granting a security interest in the Equity Interests in each of such grantor's Subsidiaries in favor of Agent for the benefit of the Secured Parties.

ERISA: ~~means~~ the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

ERISA Affiliate: any trade or business (whether or not incorporated) under common control with an Obligor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

ERISA Event:

(a) Reportable Event with respect to a Pension Plan;

(b) withdrawal of an Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA;

(c) complete or partial withdrawal of an Obligor or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization;

(d) filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the institution of proceedings by the PBGC to terminate a Pension Plan;

(e) determination that a Pension Plan is considered an at-risk plan or a plan in critical or endangered status under the Code or ERISA;

(f) an event or condition that constitutes grounds under Section 4042 of ERISA for termination of, or appointment of a trustee to administer, any Pension Plan;

(g) imposition of any liability on an Obligor or ERISA Affiliate under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA; or

(h) failure by an Obligor or ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or to make a required contribution to a Multiemployer Plan.

EU Bail-In Legislation Schedule: the EU Bail-In Legislation Schedule published by the Loan Market Association, as in effect from time to time.

Event of Default: as defined in **Section 11.1**.

Excluded Accounts: (i) any Deposit Account or Securities Account (i) exclusively used for Tax and Trust Funds or to hold funds constituting collateral for Permitted Liens of the type described in **Section 10.2.2** ~~and~~, (ii) ~~an account used to service Third Party Contracts or to hold the proceeds of Third Party Contracts and~~ (iii) containing not more than \$10,000 at any time.

Excluded Assets: (i) motor vehicles subject to certificate-of-title statutes; (ii) Excluded Accounts; and (iii) any property to the extent that such grant of a security interest of the type otherwise created hereby (A) is prohibited by any applicable law, (B) requires a consent not obtained of any Governmental Authority pursuant to such Law or (C) is prohibited by a negative pledge or anti-assignment provision or gives rise to any type of right of termination or default remedy under any contract, license, agreement, instrument or other document evidencing or giving rise to such property, except, in each case, to the extent that such Law or the term in such contract, license, agreement, instrument or other document or shareholder or similar agreement providing for such prohibition, breach, default or termination or requiring such consent is ineffective under applicable Law (including Sections 9-406, 9-407, 9-408 or 9 409 of the UCC).

Excluded Collateral: (i) any Excluded Assets, (ii) the Equity Interests of any Foreign Subsidiary to the extent such Equity Interests exceed 65% of the voting power of all classes of Equity Interests of such Foreign Subsidiary entitled to vote or (iii) the Equity Interests of a Subsidiary of a Foreign Subsidiary.

Excluded Swap Obligation: with respect to an Obligor, each Swap Obligation as to which, and only to the extent that, such Obligor's guaranty of or grant of a Lien as security for such Swap Obligation is or becomes illegal under the Commodity Exchange Act because the Obligor does not constitute an "eligible contract participant" as defined in the act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Obligor and all guarantees of Swap Obligations by other Obligors) when such guaranty or grant of Lien becomes effective with respect to the Swap Obligation. If an agreement, contract or transaction governs more than one Swap Obligation, only the Swap Obligation(s) or portions thereof described in the foregoing sentence shall be Excluded Swap Obligation(s) for the applicable Obligor.

Excluded Taxes: (a) Taxes imposed on or measured by a Recipient's net income (however denominated), franchise Taxes and branch profits Taxes (i) as a result of such Recipient being organized under the laws of, or having its principal office or applicable Lending Office located in, the jurisdiction imposing such Tax, or (ii) constituting Other Connection Taxes; (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of a Lender with respect to its interest in a Loan or Commitment pursuant to a law in effect when the Lender acquires such interest (except pursuant to an assignment request by Borrower Agent under **Section 13.4**) or changes its Lending Office, unless the Taxes were payable to its assignor immediately prior to such assignment or to the Lender immediately prior to its change in Lending Office; (c) Taxes attributable to a Recipient's failure to comply with **Section 5.10**; and (d) U.S. federal withholding Taxes imposed pursuant to FATCA.

Existing BAML Bank Products: Bank Products extended to Parent or its Affiliates by BAML (including all investments, earnings, increases and proceeds thereof) as in effect on the Second Amendment Effectiveness Date.

Existing BAML Letters of Credit: that certain (a) Letter of Credit issued by Bank of America, N.A. in the stated face amount of \$66,977.14 as letter of credit number 68087655 and (b) Letter of Credit issued by Bank of America, N.A. in the stated face amount of \$375,000.00 as letter of credit number 68124371.

Existing Bank Products: Bank Products provided under the Existing Loan Agreement and in existence on the Closing Date consisting of those listed on **Schedule 1.1E(1)**.

Existing HY Note Indenture: that certain Senior Notes Indenture, dated as of July 1, 2014, by and among Parent, the guarantors party thereto and U.S. Bank National Association, as trustee, as amended.

Existing HY Notes: Parent's 7.250% Senior Notes due 2022 issued pursuant to the Existing HY Note Indenture.

Existing Letters of Credit: the issued and outstanding letters of credit as set forth in **Schedule 1.1E(2)**.

Existing Loan Agreement: as defined in the recitals to this Agreement.

Existing Securitization Facilities (a) the transaction established pursuant to that certain (i) Base Indenture dated as of April 19, 2017, by and between Conn's Receivables Funding 2017-A, LLC, and Wells Fargo Bank, National Association, and (ii) Series 2017-A Supplement to the Base Indenture, dated as of April 19, 2017, by and between Conn's Receivables Funding 2017-A, LLC and Wells Fargo Bank, National Association, (b) the transaction established pursuant to that certain (i) Base Indenture dated as of December 20, 2017, by and between Conn's Receivables Funding 2017-B, LLC, and Wilmington Trust, National Association, and (ii) Series 2017-B Supplement to the Base Indenture, dated as of December 20, 2017, by and between Conn's Receivables Funding 2017-B, LLC and Wilmington Trust, National Association (c) the transaction established pursuant to that certain Indenture, dated as of February 24, 2017, by and among Conn's Receivables Warehouse, LLC, Conn Appliances, Inc., Conn's Receivables Warehouse Trust, Wells Fargo Bank, National Association, and Credit Suisse AG, New York Branch and (d) any other Permitted ABS Transaction entered into after the Closing Date; provided that any reference in this Agreement to "the Existing Securitization Facility" shall be a reference to any of the foregoing.

Extraordinary Expenses: all costs, expenses or advances that Agent may incur during the existence an Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor or any Lender in accordance with the terms of this Agreement and the other applicable Loan Documents, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Agent, any Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Agent's Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other Claims; (c) the exercise, protection or enforcement of any rights or remedies of Agent in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of any taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations; and (g) Protective Advances. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' fees and commissions, auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses; provided, that, notwithstanding the foregoing or anything to the contrary contained herein (a) attorneys' fees and expenses shall be limited to the reasonable and documented out-of-pocket fees, charges and disbursements of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent and, in the case of any actual or potential conflict of interest, one (1) additional counsel to all Lenders, taken as a whole and (b) Extraordinary Expenses shall be subject to the limitations set forth herein including the limitations on inspections and appraisals set forth in **Section 10.1.1**.

FATCA: Sections 1471 through 1474 of the Code (including any amended or successor version if substantively comparable and not materially more onerous to comply with), and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

Federal Funds Effective Rate: (a) the weighted average per annum interest rate on overnight federal funds transactions with members of the Federal Reserve System on the applicable day (or the preceding Business Day, if the applicable day is not a Business Day), as published by the Federal Reserve Bank of New York on the next Business

Day; or (b) if the rate is not so published, the average rate per annum (rounded up to the nearest 1/100th of 1%) charged to Bank of America on the applicable day on such transactions, as determined by Agent; provided, that in no event shall the Federal Funds Effective Rate be less than zero.

Fee Letter: one or more fee letter agreements between Agent and Borrowers dated as of even date herewith.

First Amended and Restated Loan Agreement: as defined in the recitals to this Agreement.

First Amendment Effective Date: August 26, 2019.

Fiscal Quarter: each period of three months, commencing on the first day of a Fiscal Year.

Fiscal Year: the fiscal year of Parent and its Subsidiaries for accounting and tax purposes, ending on January 31 of each year.

Flooring Intercreditor Agreement: each intercreditor agreement entered into by Agent and a Flooring Lender, in form and substance reasonably satisfactory to Agent.

Flooring Lender: any lender which provides financing for the purchase of Inventory by a Borrower.

FLSA: the Fair Labor Standards Act of 1938.

Flood Laws: the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973 and related laws.

Foreign Lender: any Lender that is not a U.S. Person.

Foreign Plan: any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or its Subsidiary that is not subject to the laws of the United States; or (b) mandated by a government other than the United States for employees of any Obligor or its Subsidiary.

Foreign Subsidiary: a Subsidiary of Parent that is a “controlled foreign corporation” under Section 957 of the Code, such that a guaranty by such Subsidiary of the Obligations or a Lien on the assets of such Subsidiary to secure the Obligations would result in material tax liability to Borrowers.

Fronting Exposure: a Defaulting Lender’s interest in LC Obligations, Swingline Loans and Protective Advances, except to the extent Cash Collateralized by the Defaulting Lender or allocated to other Lenders hereunder.

Full Payment: with respect to any Obligation (a) the full cash payment thereof (other than contingent obligations for which no claim or demand has been made), including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); and (b) if such Obligations are LC Obligations or contingent in nature (other than contingent obligations (other than LC Obligations) for which no claim or demand has been made), Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Agent in its discretion, in the amount of required Cash Collateral). A Full Payment of Revolver Loans shall not be deemed to have occurred unless all Revolver Commitments related to such Revolver Loans are terminated or have expired.

GAAP: generally accepted accounting principles in effect in the United States from time to time. If Borrower Agent notifies Agent that it is required to report under IFRS or has elected to do so through an early adoption policy, upon the execution and effectiveness of an amendment hereof in accordance therewith to accommodate such change in accordance with **Section 1.2**, “GAAP” means international financial reporting standards pursuant to IFRS, it being understood and agreed that all financial statements shall be prepared in accordance with IFRS.

Gift Card Reserve: a reserve equal to 50% of the face amount of gift cards which are issued by a Borrower and are outstanding as of any measurement date.

Governmental Approval: any authorization, consent, approval, license or exemption of, or any registration or filing with, any Governmental Authority.

Governmental Authority: any federal, state, local, foreign or other agency, authority, body, commission, court, instrumentality, political subdivision, central bank, or other entity or officer exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions for any governmental, judicial, investigative, or regulatory authority (including the Consumer Financial Protection Bureau, the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or European Central Bank).

Gross Cash Collections: total Contracts payments received from Contract Debtors and applied to such Contracts during any applicable period.

Gross Contract Payments: as of the date of determination, (i) with respect to an interest-bearing Contract, the outstanding balance thereof including all accrued but unpaid interest, fees and other charges (including administrative fees and escrow fees but excluding late charges), owing by the Contract Debtor, and (ii) with respect to a precomputed Contract, the outstanding balance thereof including all unearned interest, fees, and charges (including administrative fees and escrow fees but excluding late charges), owing by the Contract Debtor.

Guarantor Payment: as defined in **Section 5.11.3(b)**.

Guarantors: Parent, CAIH, CAIC, CLL and each other Person who guarantees payment or performance of any Obligations.

Guaranty: each guaranty agreement executed by a Guarantor in favor of Agent.

Hedging Agreement: any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one (1) or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or other employee benefit plan providing for payments only on account of services provided by current or former directors, officers, employees, members of management or consultants of Parent, Borrowers or any of their Subsidiaries shall be a Swap Agreement.

HY Note Indenture: the Existing HY Note Indenture and any Permitted Additional HY Note Indenture.

HY Note Subordination Agreement: [one or more subordination agreements entered into between Agent and the trustee with respect to a HY Note Indenture, in form and substance reasonably satisfactory to Agent.](#)

HY Notes: the Existing HY Notes and any Permitted Additional HY Notes.

Increased Reporting Period: at any time after (i) an Event of Default occurs, (ii) average Availability during any month (as reflected in the Loan Account) is less than 12.5% of the Borrowing Base, or (iii) Availability (as reflected in the Loan Account) is less than 10% of the Borrowing Base at any time for four or more consecutive days. When in place, such Increased Reporting Period shall be deemed continuing so long as (a) such Event of Default has not been waived, and/or (b) if the Increased Reporting Period arises as a result of Borrowers' failure to achieve Availability as required hereunder, until average Availability during any month (as reflected in the Loan Account) has exceeded 15% of the Borrowing Base for ninety (90) consecutive days, in which case an Increased Reporting Period shall no longer be deemed to be continuing for purposes of this Agreement; provided, that an Increased Reporting Period shall be deemed continuing (even if an Event of Default is no longer continuing and/or Availability exceeds the required amount for ninety (90) consecutive days) at all times after an Increased Reporting Period has occurred and been discontinued on two (2) occasions after the Closing Date.

Indemnified Taxes: (a) Taxes, other than Excluded Taxes, imposed on or relating to any payment of an Obligation; and (b) to the extent not otherwise described in clause (a), Other Taxes.

Indemnites: Agent Indemnites, Lender Indemnites, Issuing Bank Indemnites and JPM Indemnites.

Insolvency Proceeding: any case or proceeding commenced by or against a Person under any state, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or any other insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property; or (c) an assignment or trust mortgage for the benefit of creditors.

Intellectual Property: all intellectual and similar Property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all Licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

Intellectual Property Claim: any claim or assertion (whether in writing, by suit or otherwise) that a Borrower's or its Subsidiary's ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person's Intellectual Property.

Interest Coverage Ratio: the ratio, determined as of the end of any Fiscal Quarter on a consolidated basis for Parent and its Subsidiaries (including EBITDA and Interest Expense under the Existing Securitization Facility and any other Permitted ABS Transactions whether or not consolidated in Parent's financial statements), of (a) EBITDA less the EBITDA Loss Reserve Shortfall divided by 2 in the case of Section 10.3.1(a) and 4 in the case of Section 10.3.1(b) to (b) Interest Expense.

Interest Expense: with respect to Parent and its Subsidiaries on a consolidated basis, for any period of measurement, the interest expense (net of interest income to the extent not included in the calculation of EBITDA) for such period whether paid or accrued (excluding (i) the amortization of debt discounts, (ii) the amortization of all closing fees incurred with respect to the initial closing of or any amendment to (a) an Existing Securitization Facility or any Permitted ABS Transaction, (b) the HY Notes, Permitted Additional HY Notes or any Permitted Convertible Notes, (c) the Loan Documents and (d) any other documents evidencing Debt payable in connection with the incurrence of Debt to the extent included in interest expense, and (iii) backup servicing fees, field exam and other non-interest expenses but only if such expenses are otherwise deducted from ordinary operating expenses or the definition of EBITDA for covenant calculation purposes, and including (x) commissions, discounts and other fees and charges incurred in respect of letters of credit, (y) the portion of any payments or accruals with respect to Capital Leases allocable to interest expense and (z) net payments and receipts (if any) pursuant to interest rate Hedging Agreements).

Interest Period: as defined in **Section 3.1.3**.

Inventory: as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in a Borrower's business (but excluding Equipment).

Inventory Formula Amount: the lesser of (i) 33.33% of the Revolver Commitments then in effect; or (ii) 85% of the NOLV Percentage of the Value of Eligible Inventory.

Inventory Reserve: reserves established by Agent in its Permitted Discretion to reflect factors that may negatively impact the Value of Eligible Inventory and are not reflected in the determination of the NOLV Percentage and without duplication of items addressed in the eligibility criterion of Eligible Inventory. Without limiting the generality of the foregoing, Inventory Reserves may include (but are not limited to) reserves based on change in salability, obsolescence, seasonality, theft, imbalance, change in composition or mix, markdowns and vendor chargebacks.

Investment: as to any Person, an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of another Person, or a loan or advance of money, or capital contribution to, another Person.

IRS: the United States Internal Revenue Service.

Issuing Bank: JPM and any other Lender acceptable to Borrower Agent including any Lending Office of JPM or such Lender, or any replacement issuer appointed pursuant to **Section 2.3.4**.

Issuing Bank Indemnitees: Issuing Bank and its officers, directors, employees, Affiliates, agents and attorneys.

JPM: as defined in the Preamble to this Agreement.

JPM Indemnitees: JPM and its officers, directors, employees, Affiliates, agents and attorneys.

LC Application: an application by Borrower Agent to Issuing Bank for issuance of a Letter of Credit, in form and substance satisfactory to Issuing Bank and Agent.

LC Conditions: upon giving effect to issuance of a Letter of Credit, (a) the conditions in **Section 6.2** are satisfied; (b) total LC Obligations do not exceed the Letter of Credit Subline, Revolver Usage does not exceed the Borrowing Base, CAI Revolver Usage does not exceed the CAI Borrowing Base and CCI Revolver Usage does not exceed the CCI Borrowing Base; (c) the Letter of Credit and payments thereunder are denominated in Dollars or other currency reasonably satisfactory to Agent and Issuing Bank; and (d) the form of the proposed Letter of Credit is reasonably satisfactory to the Issuing Bank.

LC Documents: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrowers or any other Person to Issuing Bank or Agent in connection with any Letter of Credit.

LC Obligations: the sum of (a) all amounts owing by Borrowers for any drawings under Letters of Credit; and (b) the Stated Amount of all outstanding Letters of Credit.

LC Request: a request for issuance of a Letter of Credit, to be provided by Borrower Agent to Issuing Bank in form reasonably satisfactory to Agent and Issuing Bank.

LCA Election: as defined in **Section 1.8**.

LCA Test Time: as defined in **Section 1.8**.

Leasehold Mortgages: each of the mortgages and deeds of trust, in form and substance reasonably acceptable to Agent, pursuant to which a Borrower grants to Agent, for the benefit of the Secured Parties, Liens upon the Real Estate leased by such Borrower as security for the Obligations.

Leasehold Mortgage Consent: each consent signed by the land owner for each Real Estate subject to a Leasehold Mortgage, in form and substance reasonably acceptable to Agent.

Legal Action: any judicial action, suit, or proceeding at law, in equity, or before any Governmental Authority.

Lender Indemnitees: Lenders and their officers, directors, employees, Affiliates, agents and attorneys.

Lenders: lenders party to this Agreement, including Agent in its capacity as a provider of Swingline Loans and any Person who hereafter becomes a "**Lender**" pursuant to an Assignment and Acceptance, in each case including any Lending Office of any Lender.

Lending Office: the office (including any domestic or foreign Affiliate or branch) designated as such by Agent, a Lender or Issuing Bank by notice to Borrower Agent and, if applicable, Agent.

Letter of Credit: any standby or documentary letter of credit, foreign guaranty, documentary bankers acceptance or similar instrument issued by Issuing Bank for the account or benefit of a Borrower or Affiliate of a Borrower.

Letter of Credit Subline: \$40,000,000.

Leverage Ratio: the ratio, determined as of the end of any Fiscal Quarter for Parent and its Subsidiaries, on a consolidated basis, of (a) the result of (i) all items that would be included as liabilities on a balance sheet in accordance with GAAP as of the last day of such Fiscal Quarter (including debt under the Existing Securitization Facility and any other Permitted ABS Transactions whether or not included as a liability on the balance sheets), minus (ii) the sum of Qualified Cash and ABS Qualified Cash as of such date of measurement, to (b) Tangible Net Worth as of the last day of such Fiscal Quarter.

LIBOR: the per annum rate of interest (rounded up to the nearest 1/100th of 1%) determined by Agent at or about 11:00 a.m. (London time) two Business Days prior to an Interest Period, for a term equivalent to such period, equal to the LIBOR Screen Rate; provided, that in no event shall LIBOR be less than ~~zero~~ 0.75%. It is understood and agreed that all of the terms and conditions of this definition of "LIBOR" shall be subject to **Section 3.6**.

LIBOR Revolver Loan: a Revolver Loan that bears interest based on LIBOR.

LIBOR Screen Rate: the London Interbank Offered Rate, or comparable or successor rate approved by Agent, as published on the applicable Reuters screen page (or other commercially available source designated by Agent from time to time); provided, that any comparable or successor rate shall be applied by Agent, if administratively feasible, in a manner consistent with market practice.

LIBOR Successor Rate: as defined in **Section 3.6(b)**.

LIBOR Successor Amendment: as defined in **Section 3.6(b)**.

LIBOR Successor Rate Conforming Changes: with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Base Rate, Interest Period, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the commercially reasonable discretion of the Agent in consultation with the Borrower Agent, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Agent determines in consultation with the Borrower Agent).

License: any written license or agreement under which an Obligor is authorized to use Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Licensor: any Person from whom an Obligor obtains the right to use any Intellectual Property.

Lien: with respect to any asset, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as the foregoing), in each case, relating to such asset and in the nature of security.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Agent, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Agent to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents

in its possession relating to the Collateral as agent for Agent, and agrees to deliver the Collateral to Agent upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Agent's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Agent upon request; and (d) for any Collateral subject to a Licensor's Intellectual Property rights, the Licensor grants to Agent the right, vis à vis such Licensor, to enforce Agent's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

Limited Condition Acquisition: any Permitted Acquisition that the Parent or one or more of its Subsidiaries has contractually committed to consummate, the terms of which do not condition the Parent's or its Subsidiary's, as applicable, obligations to close such Permitted Acquisition on the availability of third-party financing.

Limited Repurchase Obligations: any obligation of a Person that is a seller of Contracts directly or indirectly to a Securitization Subsidiary to repurchase such Contracts arising as a result of a breach of a representation, warranty or covenant, including as a result of a Contract or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

Liquidity: the sum of (i) cash and Cash Equivalents of Parent and the Borrowers which are not subject to any Liens other than the Liens permitted under Section 10.2.2(a), (c), (e), (i), (x), (z), (aa), (dd) and (ee) plus (ii) Availability.

Loan Account: the loan account established by each Lender on its books pursuant to **Section 5.8**.

Loan Documents: this Agreement, Other Agreements, Security Documents and the Flooring Intercreditor Agreements.

Loan Year: each 12-month period commencing on the Closing Date or an anniversary thereof.

Managed Contract Portfolio: the Owned Contract Portfolio and ABS Contract Portfolio.

Margin Stock: as defined in Regulation U of the Board of Governors.

Material Adverse Effect: (a) a material adverse effect on the business, operations, Properties or financial condition of Obligors, taken as a whole; (b) a material adverse effect on the validity or enforceability of the Loan Documents or the rights or remedies of the Agent and the Lenders thereunder, taken as a whole; or (c) a material adverse impairment of the ability of the Obligors, collectively, to perform any obligations under the Loan Documents, including repayment of any Obligations, or on the ability of Agent or any Lender to enforce or collect any Obligations under the Loan Documents or to realize upon any Collateral.

Material Contract: any agreement or arrangement to which any Obligor is a party (other than the Loan Documents) (a) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (b) that relates to Debt with an aggregate outstanding principal amount of \$35,000,000 or more.

Modified Contract: a Contract which, at any time, was in payment default for more than 60 days and such payment default was cured by execution of a new Contract in order to adjust, amend, or reduce the payment terms of the original Contract.

Moody's: Moody's Investors Service, Inc.

Mortgage: each mortgage, deed of trust or deed to secure debt pursuant to which a Borrower grants to Agent, for the benefit of Secured Parties, Liens upon the Real Estate fee owned by such Borrower, as security for the Obligations.

Multiemployer Plan: any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

Net Balance: ~~means~~, as of the date of determination, the Gross Contract Payments of a Contract less all unearned interest owing by the Contract Debtor.

Net Charge-Off: for any period, the aggregate amount of all unpaid payments due under Contracts which have been charged off during such period, as reduced by the amount of unearned interest, unearned insurance, accrued but unpaid interest, unpaid late charges, repossession recoveries, cash recoveries and amounts recovered in cash from other third parties, with respect to Contracts which had been charged off during previous periods or during such period.

Net Charge-Off Percent: the percent, calculated as of the last day of each month, equal to (a) aggregate amount of Net Charge-Offs for the 3 preceding months then ended multiplied by 4, divided by (b) the sum of the Net Balance owing under all Contracts outstanding during the trailing 3 months then ended, divided by 3.

Net Eligible Contract Payments: ~~means~~, as of the date of determination, the remainder of (a) the Gross Contract Payments owing under all Eligible Contracts, minus (b) the sum of (i) the aggregate amount, to the extent included within the definition of Gross Contract Payments, of all unearned interest, fees, and charges applicable to the Eligible Contracts and (ii) the unearned insurance commissions as presented on the books and records of Borrowers.

Net Proceeds: with respect to an Asset Disposition, proceeds (including, when received, any deferred or escrowed payments) received by a Borrower or any of its Subsidiaries in cash from such disposition, net of (a) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions; (b) amounts applied to repayment of Debt secured by a Permitted Lien senior to Agent's Liens on Collateral sold; (c) transfer or similar taxes; and (d) reserves for indemnities, until such reserves are no longer needed.

NOLV Percentage: the net orderly liquidation value of Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all liquidation expenses, as determined from the most recent appraisal of Borrowers' Inventory performed by an appraiser and on terms reasonably satisfactory to Agent.

Non-Consenting Lender: any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders, or all affected Lenders in accordance with the terms of **Section 14.1.1** and (ii) has been approved by the Required Lenders.

Notice of Borrowing: a request by Borrower Agent for a Borrowing of Revolver Loans, in form reasonably satisfactory to Agent.

Notice of Conversion/Continuation: a request by Borrower Agent for conversion or continuation of any Revolver Loan as a LIBOR Revolver Loan, in form reasonably satisfactory to Agent.

Obligations: all (a) principal of and premium, if any, on the Loans, (b) LC Obligations and other obligations of Obligors with respect to Letters of Credit, (c) interest, expenses, fees, indemnification obligations, Extraordinary Expenses and other amounts payable by Obligors under the Loan Documents, (d) Secured Bank Product Obligations, and (e) other Debts, obligations and liabilities of any kind owing by Obligors pursuant to the Loan Documents, in each case, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several; provided, that Obligations of an Obligor shall not include its Excluded Swap Obligations.

Obligor: each Borrower, Guarantor or other Person that is liable for payment of any Obligations or that has granted a Lien on its assets in favor of Agent to secure any Obligations.

OFAC: Office of Foreign Assets Control of the U.S. Treasury Department.

Ordinary Course of Business: the ordinary course of business of any Borrower or any of its Subsidiaries or consistent with past practices.

Organic Documents: with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

Original Loan Agreement: as defined in the recitals to this Agreement.

OSHA: the Occupational Safety and Hazard Act of 1970.

Other Agreement: each Revolver Note, LC Document, Fee Letter, Permitted ABS Intercreditor Agreement or other subordination or intercreditor agreement entered into by Agent in connection with Debt permitted under **Section 10.2.1(b)**.

Other Connection Taxes: Taxes imposed on a Recipient due to a present or former connection between it and the taxing jurisdiction (other than connections arising from the Recipient having executed, delivered, become party to, performed obligations or received payments under, received or perfected a Lien or engaged in any other transaction pursuant to, enforced, or sold or assigned an interest in, any Revolver Loan or Loan Document).

Other Taxes: all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a Lien under, or otherwise with respect to, any Loan Document, except Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to **Section 13.4(c)**).

Overadvance: as defined in **Section 2.1.5**.

Owned Contract Portfolio: portfolio of Contracts subject to Agent's Lien pursuant to the Security Documents.

Parent: as defined in the Preamble to this Agreement.

Participant: as defined in **Section 13.2.1**.

Past Due Percent: the percent, calculated as of the beginning of the first day of each month, equal to (a) the Gross Contract Payments owing under all Contracts (excluding Contracts charged-off), as to which any portion of an installment due thereunder is more than 30 days past due as determined on a contractual basis as of the last day of the month immediately preceding the date of calculation, divided by (b) the Gross Contract Payments owing under all Contracts (excluding Contracts charged-off) as of the last day of the month immediately preceding the date of calculation.

Patriot Act: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

Payment Conditions: with respect to (a) any Permitted Distribution, incurrence of Debt, payment of Debt or Permitted Acquisition or other Investment permitted hereunder, so long as immediately before and after giving effect thereto, (i) no Event of Default exists and (ii) the sum of (A) Qualified Cash plus (B) Availability is greater than 25% of the sum of (x) Qualified Cash plus (y) the Borrowing Base and (b) in the case of a Permitted Distribution, so long as (i) immediately before and after giving effect thereto, no Event of Default exists and (ii) financial statements and Compliance Certificates delivered by Parent to Agent pursuant to **Section 10.1.2** for the most recent Fiscal Quarter ended reflect that Parent has achieved, on a Pro Forma Basis, an Interest Coverage Ratio of greater than or equal to 1.75:1.00 for the trailing two Fiscal Quarters ending immediately prior to giving effect to such Distribution or payment.

Payment Item: each check, draft or other item of payment payable to a Borrower, including those constituting proceeds of any Collateral.

PBGC: the Pension Benefit Guaranty Corporation.

Pension Funding Rules: Code and ERISA rules regarding minimum required contributions (including installment payments) to Pension Plans set forth in, for plan years ending prior to the Pension Protection Act of 2006 effective date, Section 412 of the Code and Section 302 of ERISA, both as in effect prior to such act, and thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

Pension Plan: any employee pension benefit plan (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

Permitted ABS Agent: with respect to a Permitted ABS Transaction, the entity acting as trustee, collateral agent or other secured party or pledgee under such Permitted ABS Transaction.

Permitted ABS Documents: the Permitted ABS Financing Agreements, the Permitted ABS Purchase Agreements and all documents, instruments and agreements executed in connection therewith.

Permitted ABS Financing Agreement: an agreement entered into in connection with a Permitted ABS Transaction, including an indenture, by and between a Securitization Subsidiary and a Permitted ABS Agent, whereby a Securitization Subsidiary grants a security interest in, or deposits into trust, Contracts and which prior to its execution by such Securitization Subsidiary.

Permitted ABS Intercreditor Agreement: an intercreditor agreement by and among Permitted ABS Agent and Agent.

Permitted ABS Purchase Agreement: any agreement by and between one or more Borrowers and a Securitization Subsidiary in connection with a Permitted ABS Transaction for the purpose of effecting one or more transfers of Contracts.

Permitted ABS Transaction: ~~means~~ (A) any Existing Securitization Facility or (B) any other transaction pursuant to which a direct or indirect Subsidiary of Parent acquires or has the right to acquire by capital contribution or sale Contracts originated or acquired by one or more Borrowers or other direct or indirect Subsidiaries of Parent or a Borrower, which such Subsidiary acquires or has the right to acquire either (i) from time to time or (ii) in one or more contemporaneous transfers that taken together constitute one transaction, in either case for the purpose of pooling such assets and pledging or granting a security interest in such pool to secure indebtedness (whether in the form of a term or revolving loan or the issuance of securities, certificates or notes, including term notes or variable funding notes) or depositing such pool with a trustee for the purpose of issuing certificates or other instruments representing a beneficial interest in the assets of a trust, in each case so long as:

(a) on each day on which a Borrower transfers a pool of Contracts thereunder, after giving effect to such transfer and any prepayment of the aggregate principal amount of Revolver Loans, the Revolver Usage shall not exceed the Borrowing Base;

(b) such transactions are entered into without recourse to any Obligor, other than Limited Repurchase Obligations and customary representations, warranties, covenants and indemnities made in connection with such transactions;

(c) such transaction is on current market terms for facilities of such type (as reasonably determined by Borrowers);

(d) upon the closing of such transaction or within 10 days (or such later date as shall be reasonably acceptable to Agent) thereafter, Agent has received all of the material documentation related to such transaction; and

(e) in the case of any Permitted ABS Transaction entered into after the Closing Date:

(i) if (and only if) a Dominion Trigger Period exists before or would exist, after giving effect to any transfer of a pool of Contracts under such transaction, the net cash proceeds of such Permitted ABS Transaction payable to the Borrowers shall be used to repay an aggregate principal amount of Revolver Loans outstanding in an amount equal to the net cash proceeds of such Permitted ABS Transaction received by the Borrowers;

(ii) if such Permitted ABS Transaction is a “revolving” transaction, for each transfer of a pool of Contracts thereunder, Agent has received (x) evidence reasonably acceptable to it that such pool of Contracts to be transferred on the Cut-Off Date pursuant to such Permitted ABS Transaction are randomly selected as of the related Cut-Off Date from the Contracts owned by the Obligors that are eligible to be advanced against under such Permitted ABS Transaction at such time (it being understood that, for purposes of determining whether such pool of Contracts are randomly selected, any Securitized Contracts with respect to any other Permitted ABS Transaction that are assigned and transferred to a Borrower upon the termination of such Permitted ABS Transaction shall be disregarded) and (y) a pro forma Borrowing Base Report; and

(iii) if such Permitted ABS Transaction is not a “revolving” transaction, (x) if fewer than 85% of the Contracts owned by the Obligors at such time are contributed or sold to a Securitization Subsidiary as part of such Permitted ABS Transaction, Agent has received evidence reasonably acceptable to it that (A) the pool of Contracts to be transferred on the Cut-Off Date pursuant to such Permitted ABS Transaction are randomly selected from the Contracts owned by the Obligors that are eligible to be advanced against under such Permitted ABS Transaction (it being understood that, for purposes of determining whether such pool of Contracts are randomly selected, any Securitized Contracts with respect to any other Permitted ABS Transaction that are assigned and transferred to a Borrower upon the termination of such Permitted ABS Transaction shall be disregarded) or (B) after giving effect to such Permitted ABS Transaction the Collateral shall, in the Agent’s determination, remain consistent in all material respects with the Collateral as it existed prior to such Permitted ABS Transaction and (y) Borrower Agent shall deliver to Agent a pro forma Borrowing Base Report.

Permitted Acquisition: any Acquisition as long as:

(a) the assets, business or Person being acquired is located or organized within the United States;

(b) no more than two (2) (or such greater number as is acceptable to Agent) such Acquisitions are consummated within any 12 month period and no more than four (4) (or such greater number as is acceptable to Agent) such Acquisitions are consummated prior to the Revolver Termination Date;

(c) the Acquisition is consensual;

(d) (i) the Payment Conditions are satisfied with respect to such Acquisition and (ii) to the extent the business or Person being acquired has EBITDA less than \$0 for the 12 month period most recently ended for which the Borrowers have financial information, the Borrowers shall be in compliance on a Pro Forma Basis with **Section 10.3.1**.

(e) Obligors are in compliance with the financial covenants set forth in **Section 10.3** after giving effect to such Acquisition on a Pro Forma Basis and Parent has delivered to Agent a certificate demonstrating such compliance; and

(f) Borrowers deliver to Agent a certificate stating that the Acquisition is a “Permitted Acquisition” and demonstrating compliance with the foregoing requirements.

Permitted Additional HY Note Indenture: an indenture to be entered into in respect of any Permitted Additional HY Notes between Parent and an indenture trustee.

Permitted Additional HY Notes: senior or senior subordinated notes issued by Parent after the Closing Date with the following terms and conditions:

(a) the obligations of Parent or any other Person to repay such Debt are unsecured; and

(b) no principal payments are required to be paid with respect thereto prior to the date which is 91 days after the Revolver Termination Date other than principal payments which are required to be paid after acceleration of such Debt and principal payments due in connection with customary asset sale or change of control provisions.

Permitted Asset Disposition: an Asset Disposition that is:

(a) a sale of Inventory in the Ordinary Course of Business;

(b) a disposition of Equipment (other than those set forth in clause (e) below), that, in the aggregate during any 12-month period, has a book value of \$20,000,000 or less;

(c) a disposition of Inventory or Property that is obsolete, worn out, unmerchantable or otherwise unsalable in the Ordinary Course of Business;

(d) a termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business;

(e) a disposition of any Borrower's Real Estate and related Equipment affixed thereto in connection with a sale or sale-leaseback transaction;

(f) a Permitted Contract Transfer;

(g) an exchange of like property for use in a similar business of Parent and its Subsidiaries;

(h) a sale, lease, assignment, sublease, license or sublicense of any real or personal property in the Ordinary Course of Business;

(i) exercise of termination rights under any lease, sublease, license, sublicense, concession or other agreement or pursuant to buy/sell arrangements under any joint venture or similar agreement or arrangement;

(j) the grant in the Ordinary Course of Business of any licenses or sublicenses of Intellectual Property;

(k) a discount of Inventory or notes receivable or the conversion of accounts receivable to notes receivable in the Ordinary Course of Business;

(l) any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(m) a disposition in connection with the outsourcing of services in the Ordinary Course of Business;

(n) termination or unwinding of Hedging Agreements not resulting in an Event of Default pursuant to **Section 11.1(f)**;

(o) a sale or other disposition of Equity Interests under any compensation plan or agreement and other sales of Equity Interests which do not result in a Change of Control;

(p) an Asset Disposition constituting a merger, consolidation or other business combination or the disposition of all or substantially all of the assets of any Borrower or its Subsidiaries, in each case as permitted under **Section 10.2.9**;

(q) sales of accounts receivable in connection with the collection, settlement or compromise thereof or in an Insolvency Proceeding of the relevant account debtor, in each case, in the Ordinary Course of Business;

(r) a Permitted Distribution or Investments permitted by **Section 10.2.5**;

(s) a disposition of cash and Cash Equivalents in the Ordinary Course of Business; and

(t) approved in writing by the Required Lenders, such approval not to be unreasonably withheld, delayed or conditioned.

Permitted Contingent Obligations: Contingent Obligations:

(a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business;

(b) arising from Hedging Agreements permitted hereunder;

(c) existing on the Closing Date, and any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing which does not increase the amount of such Contingent Obligation except by an amount equal to accrued and unpaid interest, penalties and premiums (including tender premiums) and defeasance costs, in each case on the primary obligation, and fees, commissions and expenses related to such any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing of the Contingent Obligation and the underlying primary obligation;

(d) incurred in the Ordinary Course of Business with respect to bids, trade contracts (other than for Borrowed Money), leases (other than Capital Leases), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts, financial assurances and completion guarantees and similar obligations, including those incurred to secure health, safety and environmental obligations in the ordinary course of business (including Indebtedness in respect of letters of credit, bank guarantees or similar instruments in lieu of such items to support the issuance thereof);

(e) arising from agreements of Parent and its Subsidiaries providing for indemnification, adjustment of purchase or acquisition price or similar obligations (including without limitation earn-out obligations), in each case, incurred or assumed in connection with any acquisition or Disposition of any business or assets (including Equity Interests of Subsidiaries) of any Subsidiary of Parent permitted by **Section 10.2.5** or **Section 10.2.6**, other than Contingent Obligations of Debt incurred by any Person acquiring all or any portion of such business or assets for the purpose of financing such acquisition;

(f) arising under the Loan Documents;

(g) relating to indemnification, guaranty or repurchase obligations arising under Permitted ABS Documents; and

(h) (i) all other Contingent Obligations in an aggregate amount not to exceed \$30,000,000 at any time outstanding and (ii) any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing which does not increase the outstanding principal amount thereof except by an amount equal to accrued and unpaid interest, penalties and premiums (including tender premiums) and defeasance costs on the underlying obligation, and fees, commissions and expenses related to such any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extensions or refinancing.

Permitted Contract Transfer: (a) a sale or other transfer by a Borrower to a Securitization Subsidiary of Contracts pursuant to the Permitted ABS Purchase Agreement, (b) a sale or other transfer of Contracts between Borrowers in connection with a Permitted ABS Transaction, (c) a sale or other transfer of Contracts between two Securitization Subsidiaries in connection with a Permitted ABS Transaction, (d) a capital contribution of Contracts by a Borrower to a Securitization Subsidiary in connection with a Permitted ABS Transaction with the consent of Agent and (e) the granting by a Securitization Subsidiary to a Permitted ABS Agent of a security interest in Contracts subject to a Permitted ABS Transaction.

Permitted Convertible Notes: senior and/or subordinated convertible debt securities of Parent (a) that are unsecured, (b) that may be guaranteed by any or all of the Subsidiaries of Parent, including, without limitation, any Borrower, (c) that are not subject to any sinking fund or any prepayment, redemption or repurchase requirements, whether scheduled, triggered by specified events or at the option of the holders thereof (it being understood that none of (i) a customary “change in control” or “fundamental change” put, (ii) a right to convert such securities into common stock of the Company, cash or a combination thereof as the Company may elect or (iii) an acceleration upon an event of default will be deemed to constitute such a sinking fund or prepayment, redemption or repurchase requirement), (d) that have the benefit of covenants and events of default customary for comparable convertible securities (as determined by Parent in good faith) and (e) have a scheduled maturity date at least 91 days later than the Revolver Termination Date (as in effect on the date of issuance of the Permitted Convertible Notes).

Permitted Convertible Notes Hedging Agreements: (a) a Hedging Agreement pursuant to which Parent acquires a call or a capped call option requiring the counterparty thereto to deliver to Parent shares of common Equity Interests of Parent, the cash value of such shares or a combination thereof from time to time upon exercise of such option and (b) if entered into by Parent in connection with any Hedging Agreement described in clause (a) above, a Hedging Agreement pursuant to which Parent issues to the counterparty thereto warrants to acquire common Equity Interests of Parent, in each case, entered into by Parent in connection with, and prior to or concurrently with, the issuance of any Permitted Convertible Notes; provided that the terms, conditions and covenants of each such Hedging Agreement shall be such as are typical and customary for hedging agreements of such type (as determined by Parent in good faith).

Permitted Discretion: ~~means~~ a determination made by Agent in the exercise of its reasonable credit judgment, exercised in good faith in accordance with customary business practices for comparable asset-based lending transactions in the retail and consumer finance industry, as applicable to the relevant component of the Borrowing Base and as it relates to the establishment of reserves or eligibility criteria shall require that the amount of any such reserve or category of ineligibility so established or the effect of any adjustment shall, as it relates to a reserve, be a reasonable quantification (as reasonably determined by Agent in good faith) of the incremental dilution of the Borrowing Base attributable to such contributing factors and, as it relates to an ineligible category, be reasonably related (as reasonably determined by Agent in good faith) to facts or circumstances discovered by Agent after the Closing Date or a material change in facts or circumstances that existed and were discovered by Agent prior to the Closing Date.

Permitted Distribution:

(a) Distributions declared and made by Parent or any of its Subsidiaries solely for the purpose of making, or permitting Parent to make, payments on account of obligations owed under any HY Notes, Permitted Additional HY Notes and Permitted Convertible Notes which payments are permitted to be made under **Section 10.2.8(c)**;

(b) payable solely in Equity Interests of Parent;

(c) consisting of or constituting a Permitted Tax Distribution;

(d) deemed to occur upon the exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(e) by Borrowers, or by Borrowers to Parent to enable Parent, to purchase or redeem fractional shares (or cash payments in lieu thereof) of Equity Interests in connection with the exercise of warrants, options, other rights to acquire Equity Interests or other securities convertible or exchangeable for Equity Interests of Parent;

(f) as shall be necessary to allow Parent to pay (i) operating expenses in the Ordinary Course of Business and other corporate overhead, legal, accounting and other professional fees and expenses (including, without limitation, those owing to third parties plus any customary indemnification claims made by directors, officers, employees, members of management or consultants of Parent, (ii) fees and expenses related to any debt or equity offering, Investment or acquisition permitted hereunder (in each case, whether or not successful), (iii) franchise or similar taxes and other fees and expenses required in connection with the maintenance of its existence and its ownership of Borrower, (iv) the consideration to finance any Investment permitted hereunder (provided that such Distribution under this clause (g)(iv) shall be made substantially concurrently with the closing of such Investment), (v) customary salary, bonus, severance, indemnification obligations and other fees, benefits or expenses reimbursements payable to directors, officers, employees, members of management and consultants of Parent and any payroll, social security or similar taxes thereof, (vi) any incremental state or local income or franchise tax (net of any federal income tax benefits, as determined in good faith by Parent) payable by Parent as a result of any Permitted Distribution to such entity permitted hereby, and (vii) any amounts permitted to be paid pursuant to clauses (ii), (iii), (iv), (v) and (vii) of **Section 10.2.17**;

(g) made or expected to be made by Borrowers in respect of withholding or similar Taxes payable by any future, present or former officers, directors, employees, members of management or consultants of Parent or any of its Subsidiaries (or the estate, heirs, family members, spouse, former spouse, domestic partner or former domestic partner of the foregoing) and any repurchases of Equity Interests in consideration of such payments including demand repurchases in connection with the exercise of stock options;

(h) made within 60 days after the date of declaration thereof, if at the date of declaration such **Restricted Payment Distribution** would have complied with the provisions of this Agreement;

(i) made by any Subsidiary of the Obligors to the holders of its Equity Interests on a pro rata basis according to their interests; and

(j) so long as the Covenant Relief Period is not in effect, other Distributions declared and made by Parent or any Borrower which are approved by such Person's board of directors and which satisfy the Payment Conditions as of the date such Distribution is paid.

Permitted Liens: as defined in **Section 10.2.2**.

Permitted Originator Notes: one or more promissory notes made by a Securitization Subsidiary or a Borrower, as a purchaser of Contracts in a Permitted Contract Transfer, in favor of a Borrower or any Subsidiary of a Borrower, as a seller of Contracts in a Permitted Contract Transfer, evidencing that portion of the purchase price represented by Debt incurred by such purchaser in connection with its purchase of Contracts and related assets from such seller and which, in the case of a promissory note issued by a non-Obligor in favor of an Obligor, is subordinated to the Obligations on terms reasonably acceptable to Agent.

Permitted Purchase Money Debt: Purchase Money Debt and Capital Leases of Borrowers and its Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate outstanding amount does not exceed \$50,000,000 at any time.

Permitted Tax Distributions: for each taxable year or portion thereof with respect to which Parent, any Borrower and/or any of its Subsidiaries are members (or constituent parts) of a consolidated, combined, unitary or similar income or franchise tax group for U.S. federal and/or applicable state or local income or franchise Tax purposes of which Parent is the common parent (a "Tax Group"), aggregate distributions Parent to pay the portion of any consolidated, combined, unitary or similar U.S. federal, state or local income and franchise Taxes (as applicable) of such Tax Group for such taxable year that are attributable to the income of the Subsidiaries of Parent; provided that (i) the amount of

such dividends or other distributions for any taxable year or portion thereof shall not exceed the amount of such Taxes that the Subsidiaries would have paid had the Subsidiaries been a stand-alone corporate taxpayer (or a stand-alone corporate group).

Person: any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, land trust, business trust, unincorporated organization, Governmental Authority or other entity.

Plan: an employee benefit plan (as defined in Section 3(3) of ERISA) maintained by any Obligor or any Subsidiary of an Obligor for its employees, or to which any Obligor or any Subsidiary of an Obligor is required to contribute on behalf of its employees.

Prime Rate: the rate of interest announced by Bank of America from time to time as its prime rate. Such rate is set by Bank of America on the basis of various factors, including its costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such rate. Any change in such rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

Pro Forma Basis: as to any calculation of the Interest Coverage Ratio, the Leverage Ratio or the ABS Excluded Leverage Ratio or other financial ratio or metric for any events as described below that occur subsequent to the commencement of any relevant measurement period (the "Reference Period") for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred after giving effect thereto (it being understood and agreed that (x) unless otherwise specified for the calculation of any such financial ratio or metric, such Reference Period shall be deemed to be the relevant measurement period for such financial ratio or metric ending on the last day of the most recently ended Fiscal Quarter of Parent for which financial statements available and such pro forma adjustments shall be excluded to the extent already accounted for in the calculation of EBITDA for such period and (y) if any Person that became a Subsidiary or was merged, amalgamated or consolidated with or into a Borrower or any Subsidiary of Parent shall have experienced any event requiring adjustments pursuant to this definition, then such calculation shall give pro forma effect thereto for such period as if such event occurred at the beginning of such period): (i) in making any determination of EBITDA, pro forma effect shall be given to any Asset Disposition of a Subsidiary of Parent or line of business, to any Acquisition, any discontinued operation or any operational change in each case that occurred during the Reference Period (or, in the case of determinations made with respect to any action the taking of which hereunder is subject to compliance on a Pro Forma Basis or otherwise with any ratio (any such action, a "Restricted Action") occurring during the Reference Period or thereafter and through and including the date of such determination) and (ii) in making any determination on a Pro Forma Basis, (x) all Debt (including Debt incurred or assumed and for which the financial effect is being calculated, whether incurred under this Agreement or otherwise, but excluding normal fluctuations in revolving Debt incurred for working capital purposes) incurred or permanently repaid, returned, redeemed or extinguished during the Reference Period (or, in the case of determinations made with respect to any Restricted Action, occurring during the Reference Period or thereafter and through and including the date of such determination) shall be deemed to have been incurred or repaid, returned, redeemed or extinguished at the beginning of such period (it being understood that for purposes of any calculation of any ratio and or financial metric, the use of proceeds of any such Debt shall be taken into account in such calculation) and (y) Interest Expense of such Person attributable to (A) interest on any Debt, for which pro forma effect is being given as provided in the preceding clause (x), bearing floating interest rates shall be computed on a pro forma basis utilizing the rate which is or would be in effect with respect to such Debt as at the relevant date of determination as if such rate had been actually in effect during the period for which pro forma effect is being given taking into account any interest hedging arrangements applicable to such Debt, (B) any Capital Lease shall be deemed to accrue at an interest rate reasonably determined by a Senior Officer of Parent or Borrower Agent to be the rate of interest implicit in such Capital Lease in accordance with GAAP and (C) interest on any Debt that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as Parent or any Subsidiary may designate.

Pro forma calculations made pursuant to the definition of the term “Pro Forma Basis” shall be determined in good faith by a Senior Officer of Parent or Borrower Agent and, for any fiscal period ending on or prior to the date that is 12 months following the date of any such Acquisition, Asset Disposition, discontinued operation or operational change, may include adjustments to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from such Acquisition, Asset Disposition, discontinued operation or operational change and for purposes of determining compliance with the such adjustments may reflect additional operating expense reductions and other additional operating improvements and synergies that (x) would be includable in pro forma financial statements prepared in accordance with Regulation S-X and (y) such other adjustments not includable in Regulation S-X under the Securities Act for which substantially all of the steps necessary for the realization thereof have been taken or are reasonably anticipated by Borrower to be taken in the next 12-month period following the consummation thereof and, are estimated on a good faith basis by Parent or Borrower Agent (this clause (y), the “Capped Synergies”); provided, however that the aggregate amount of any such adjustments pursuant to clause (y) shall not exceed (together with the aggregate add backs to EBITDA pursuant to clause (f) and clause (m) of the definition of EBITDA with respect to the applicable period) 20% of the EBITDA of Parent and its Subsidiaries for any such period (prior to giving effect to any such add backs).

Pro Rata: with respect to any Lender, a percentage (rounded to the ninth decimal place) determined (a) by dividing the amount of such Lender’s Revolver Commitment by the aggregate outstanding Revolver Commitments; or (b) following termination of the Revolver Commitments, by dividing the amount of such Lender’s Revolver Loans and LC Obligations by the aggregate amount of all outstanding Revolver Loans and LC Obligations or, if Full Payment of all Revolver Loans and LC Obligations has occurred or all Revolver Loans and/or LC Obligations have been Cash Collateralized, by dividing such Lender’s and its Affiliates’ remaining Obligations by the aggregate remaining Obligations.

Properly Contested: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor’s liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not reasonably be expected to have a Material Adverse Effect; and (e) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property: any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Protective Advances: as defined in **Section 2.1.6**.

PTE: ~~means~~ a prohibited transaction class exemption issued by the U.S. Department of Labor, as such exemption may be amended from time to time.

Purchase Money Debt: Debt incurred for the payment of the acquisition, construction, repair, replacement, additions, accessions and/or improvements (including any industrial revenue bond, industrial development bond and similar financings) incurred prior to or within two hundred seventy (270) days after the acquisition, construction, repair, replacement, addition, accession and/or improvement of the respective asset in order to finance such acquisition, construction, repair, replacement, addition, accession and/or improvement.

Purchase Money Lien: a Lien that secures Purchase Money Debt, encumbering only the fixed or capital assets acquired with such Debt (and any construction repairs, replacements, additions, accessions and improvements thereto, any proceeds thereof or of the foregoing) or constituting a Capital Lease.

Qualified Cash: as of any date of determination, the aggregate amount of unrestricted cash of Parent and its Subsidiaries that (i) is subject to a first priority Lien in favor of Agent for the benefit of Secured Parties and (ii) is subject to (x) a Deposit Account Control Agreement if maintained in a Deposit Account and (y) a Securities Account Control Agreement if maintained in a Securities Account.

Qualified ECP: an Obligor with total assets exceeding \$10,000,000, or that constitutes an “eligible contract participant” under the Commodity Exchange Act and can cause another Person to qualify as an “eligible contract participant” under Section 1a(18)(A)(v)(II) of such act.

RCRA: the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

Recipient: Agent, Issuing Bank, any Lender or any other recipient of a payment to be made by an Obligor under a Loan Document or on account of an Obligation under the Loan Documents.

Real Estate: all right, title and interest (whether as owner, lessor or lessee) in any real Property and any buildings, structures, parking areas or other improvements thereon.

Refinancing Conditions: the following conditions for Refinancing Debt:

(a) the Refinancing Debt is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced (plus an amount necessary to pay all accrued and unpaid interest and penalties premiums (including tender premiums) thereon and defeasance costs, fees, commissions and expenses related to such extension, renewal or refinancing) unless (i) such excess is otherwise permitted to be incurred under **Section 10.2.1** or (ii) the excess is used to repay the outstanding Revolver Loans and at the election of Required Lenders the Revolver Commitments are reduced by the amount of the repayment (and if no Revolver Loans are outstanding, at the election of Required Lenders, the Revolver Commitments are reduced by the excess);

(b) in respect of **Sections 10.2.1(l), (m)** and **Section 10.2.1(i)** (as it relates to Refinancing Debt in respect of Debt incurred under **Sections 10.2.1(l)** and **(m)**), it has a final maturity no sooner than, a weighted average life no less than, and an interest rate no greater than, the Debt being extended, renewed or refinanced;

(c) if the Debt being extended, renewed, or refinanced is subordinated to the Obligations such Debt being extended, renewed or refinanced is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced;

(d) the representations, covenants and defaults applicable to it are not materially less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced or such terms are current market terms (as determined by Borrower Agent);

(e) no additional Lien is granted to secure it except to the extent otherwise permitted by **Section 10.2.2**; and

(f) no additional Person is obligated on such Debt to the extent otherwise permitted under **Section 10.2.1**.

Refinancing Debt: Debt that is the result of an extension, renewal, refinancing or replacement of Debt permitted under **Section 10.2.1(b), (c), (d), (e), (h), (i), (k), (l), (m)** and **(aa)**, including any expenses and premiums in connection therewith.

Regulatory Event: either: (a) a “Level One Regulatory Event”, which shall mean the formal commencement by written notice by any Governmental Authority of any Legal Action against any of Borrowers or any of their Subsidiaries, or to the knowledge of Borrowers, any servicer or asset manager of their respective or collective portfolios of Contracts [or Third Party Contracts owned or serviced by a Borrower or its Subsidiary](#), denying its authority to originate, hold, own, service, collect or enforce any category or group of Contracts [or such Third Party Contracts, in each case](#) that would reasonably be expected to have a material adverse effect on the business or financial condition of Borrowers and their Subsidiaries taken as a whole, which Legal Action is not released or terminated within 180 calendar days of commencement thereof; or (b) a “Level Two Regulatory Event”, which shall mean the issuance or entering of any stay, cease and desist order, injunction, temporary restraining order, or other judicial or non-judicial sanction (other than the imposition of a monetary fine), against any of Borrowers or any of their Subsidiaries, or to

the knowledge of Borrowers, any servicer or asset manager of their respective or collective portfolios of Contracts or Third Party Contracts owned or serviced by a Borrower or its Subsidiary, for material violations of applicable law regarding the originating, holding, pledging, collecting, servicing or enforcing of any Contracts or such Third Party Contracts, in each case that would reasonably be expected to have a material adverse effect on the business or financial condition of Borrowers and their Subsidiaries taken as a whole.

Reimbursement Date: as defined in **Section 2.3.2**.

Related Parties: as to any Person, its officers, directors, employees, Affiliates, agent and attorneys.

Related Real Estate Documents: with respect to any Real Estate subject to a Mortgage, the following, in form and substance reasonably satisfactory to Agent and received by Agent for review: (a) all information required by Agent or any Lender for due diligence pursuant to Flood Laws; (b) a mortgagee title policy (or binder therefor) covering Agent's interest under the Mortgage, in a form and amount and by an insurer reasonably acceptable to Agent, which must be fully paid on such effective date; (c) a current, as-built survey of the Real Estate, containing a metes-and-bounds property description and flood plain certification, and certified by a licensed surveyor reasonably acceptable to Agent; (d) a life-of-loan flood hazard determination and, if any Real Estate is located in a special flood hazard zone, to the extent available at commercially reasonable rates (as determined by Borrower Agent), flood insurance documentation and coverage as required by Flood Laws or lesser amount reasonably satisfactory to each Lender; (e) a current appraisal of the Real Estate, prepared by an appraiser reasonably acceptable to Agent; (f) an environmental assessment, prepared by environmental engineers reasonably acceptable to Agent and (g) such other documents, instruments or agreements as Agent may reasonably require with respect to the Real Estate and Mortgage.

Rent and Charges Reserve: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral included in the Borrowing Base or could assert a Lien on any such Collateral; and (b) a reserve at least equal to three months rent and other charges that could be payable to any such Person (if any), unless it has executed a Lien Waiver.

Report: as defined in **Section 12.2.3**.

Reportable Event: any event set forth in Section 4043(c) of ERISA, other than an event for which the 30-day notice period has been waived.

Required Lenders: Lenders holding more than 50% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Revolver Loans, LC Obligations and other Obligations under the Loan Documents; provided, that Revolver Commitments, Revolver Loans and other Obligations held by a Defaulting Lender and its Affiliates shall be disregarded in making such calculation.

Requirement of Law: as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon the Person or any of its property or to which the Person or any of its property is subject.

Reserve: the CAI Availability Reserve, the CCI Availability Reserve and their respective component parts including, without limitation, the Inventory Reserve, Rent and Charges Reserve, Bank Product Reserve, Sales Tax Reserve, Gift Card Reserve, and Customer Deposit Reserve.

Restricted Investment: any Investment by a Borrower or any of its Subsidiaries, other than

(a) Investments in its Subsidiaries to the extent existing on the Closing Date;

(b) Investments (i) by the Obligors in Subsidiaries that are Obligors, (ii) by any non-Obligor in an Obligor or any other Subsidiary and (iii) by any Obligor in any non-Obligor (other than, during the Covenant Relief Period, any Securitization Subsidiary) in an outstanding amount not to exceed \$10,000,000 at any time;

- (c) Cash Equivalents;
- (d) Permitted Originator Notes;
- (e) Investments by CAI which are consistent with the corporate investment policy of CAI from time to time in effect, as approved by Agent (such approval not to be unreasonably withheld);
- (f) Investments (i) in and by a Securitization Subsidiary permitted under a Permitted ABS Transaction and (ii) other Investments in a Securitization Subsidiary in the form of (x) a direct investment in cash, (y) the purchase of any securities issued by a Securitization Subsidiary (whether by tender offer or otherwise) or (z) the transfer of any pool of Contracts by any Borrower to a Securitization Subsidiary (which may be in exchange for an underperforming pool of Contracts), in each case so long as (A) immediately before and after giving effect to such other Investment, no Event of Default exists, (B) the financial statements and Compliance Certificates delivered by Parent to Agent pursuant to Section 10.1.2 for the most recent Fiscal Quarter ended reflect that Parent is in compliance with the applicable financial covenants set forth in Section 10.3 measured on a Pro Forma Basis for the Fiscal Quarter ending immediately prior to giving effect to Investment and (C) the aggregate amount of such Investments under this clause (f)(ii) (and with respect to clause (f)(ii)(z) above, following the application of the Contract Advance Rate Amount in measuring the amount of any such Investment) do not exceed \$50,000,000 at any time;
- (g) Investments for the purpose of funding the repurchase of Contracts which are subject to a Permitted ABS Transaction from a Securitization Subsidiary so long as immediately before and after giving effect to each such repurchase, no Event of Default exists;
- (h) so long as the Covenant Relief Period is not in effect, Permitted Acquisitions;
- (i) Investments arising out of the receipt by Borrowers or any Subsidiary of promissory notes and other non-cash consideration for any Asset Dispositions permitted under **Section 10.2.6**;
- (j) accounts receivable, notes receivable, security deposits and prepayments arising and trade credit granted in the Ordinary Course of Business and any Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers made in the Ordinary Course of Business;
- (k) Investments existing on, or contractually committed as of, the Closing Date and set forth on **Schedule 10.2.5**;
- (l) Investments received in connection with the bankruptcy or reorganization of any Person, or settlement of obligations of, or other disputes with or judgments against, or foreclosure or deed in lieu of foreclosure with respect to any Lien held as security for an obligation, in each case in the Ordinary Course of Business;
- (m) Investments consisting of Debt, Liens, capital expenditures, Permitted Distributions, Asset Dispositions, payments and repurchases of Debt, fundamental change transactions, and affiliate transactions permitted under **Sections 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.6, 10.2.8, 10.2.9 and 10.2.17**;
- (n) Investments by Borrowers or any Subsidiary in an outstanding aggregate amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed \$5,000,000 at any time (plus any returns, profits, distributions and similar amounts, repayments of loans and the release of guarantees in respect of Investments theretofore made by it pursuant to this clause (n));
- (o) Investments in the Ordinary Course of Business consisting of (i) endorsements for collection or deposit or (ii) customary trade arrangements with customers;
- (p) Investments made in the Ordinary Course of Business in connection with obtaining, maintaining or renewing client and customer contracts and loans or advances made to, and guarantees with respect to obligations of, distributors, suppliers, licensors and licensees in the Ordinary Course of Business;

(q) Investments made by any Subsidiary that is not an Obligor to the extent such Investments are made with the proceeds received by such Subsidiary from an Investment made by an Obligor in such Subsidiary which is permitted hereunder;

(r) so long as the Covenant Relief Period is not in effect, any Investment upon the satisfaction the Payment Conditions with respect thereto;

(s) Investments in connection with Hedging Agreements, in each case entered into in the Ordinary Course of Business and not for speculative purposes (it being agreed that the Permitted Convertible Notes Hedging Agreements are permitted);

(t) advances to any director, officer, employee, member or management or consultant for salary, travel expenses, commissions and similar items in the Ordinary Course of Business in an aggregate amount outstanding at any time not to exceed \$5,000,000;

(u) prepaid expenses and extensions of trade credit made in the Ordinary Course of Business;

(v) deposits with financial institutions permitted hereunder;

(w) loans made by a Borrower to a Contract Debtor pursuant to a Contract entered into in the Ordinary Course of Business; and

(x) loans made pursuant to any Permitted Originator Note.

Restricted Lease: as defined in **Section 7.3.3**.

Restrictive Agreement: any agreement that prohibits, restricts or imposes any condition upon (a) the ability of Borrowers or any their respective Subsidiaries to create, incur or permit to exist any Lien upon any of its property to secure the Obligations, or (ii) the ability of any Subsidiary of Borrowers to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to Borrowers or any other Subsidiary.

Revolver Commitment: for any Lender, its obligation to make Revolver Loans and to participate in LC Obligations up to the maximum principal amount shown on **Schedule 1.1**, or as hereafter determined pursuant to each Assignment and Acceptance to which it is a party. "**Revolver Commitments**" means the aggregate amount of such commitments of all Lenders.

Revolver Commitment Termination Date: the earliest to occur of (a) the Revolver Termination Date; (b) the date on which Borrowers terminate the Revolver Commitments pursuant to **Section 2.1.4**; or (c) the date on which the Revolver Commitments are terminated pursuant to **Section 11.2**.

Revolver Exposure: as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolver Loans (including its participation in Swingline Loans) and such Lender's participation in LC Obligations at such time.

Revolver Loan: any loan made pursuant to **Section 2.1** or as a Swingline Loan.

Revolver Note: a promissory note to be executed by Borrowers in favor of a Lender in the form of **Exhibit A**, which shall be in the amount of such Lender's Revolver Commitment and shall evidence the Revolver Loans made by such Lender.

Revolver Termination Date: May 23, 2022.

Revolver Usage: (a) the aggregate amount of outstanding Revolver Loans; plus (b) the aggregate Stated Amount of outstanding Letters of Credit, except to the extent Cash Collateralized.

Royalty: all royalties, fees, expense reimbursement and other amounts payable by a Borrower under a License.

S&P: Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc.

Sales Tax Reserve: a reserve equal to 100% of the aggregate sales tax obligations of Borrowers as set forth in Borrowers' books and records as of any measurement date which have not been prepaid by Borrowers.

Sanction: any 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 or other relevant sanctions authority in each case having jurisdiction over any Borrower or its Subsidiaries.

Scheduled Unavailability Date: as defined in **Section 3.6(b)(ii)**.

Second Amended and Restated Loan Agreement: as defined in the recitals to this Agreement.

Second Amendment Effectiveness Date: November 15, 2019.

Secured Bank Product Notice: written notice from Borrower Agent and the applicable Secured Bank Product Provider to Agent, in form reasonably satisfactory to Agent, within 30 days (or such longer period as shall be acceptable to Agent and Borrower Agent) following the later of the Closing Date or creation of the applicable Bank Product, (i) describing the Bank Product and setting forth the maximum amount to be secured by the Collateral and the methodology to be used in calculating such amount, and (ii) agreeing to be bound by **Section 12.13**.

Secured Bank Product Obligations: Debt, obligations and other liabilities with respect to Bank Products to a Secured Bank Product Provider; provided, that Secured Bank Product Obligations of an Obligor shall not include (i) its Excluded Swap Obligations or (ii) leases unless designated in writing by the Borrower Agent and the relevant Secured Bank Product Provider as a Secured Bank Product Obligation.

Secured Bank Product Provider: (a) JPM or any of its Affiliates; and (b) any other Lender or Affiliate of a Lender that is providing a Bank Product (i) on the Closing Date and which has delivered a Secured Bank Product Notice to Agent prior to the Closing Date or (ii) after the Closing Date, and with respect to which such provider and Borrower Agent delivers a Secured Bank Product Notice; provided, that no Secured Bank Product Notice shall be required with respect to any Bank Products provided by JPM or any of its Affiliates.

Secured Parties: Agent, Issuing Bank, Lenders and Secured Bank Product Providers.

Securities Account Control Agreements: the account control agreements executed by each institution maintaining a Securities Account for a Borrower, in favor of Agent as security for the Obligations (other than, for the avoidance of doubt, Excluded Accounts).

Security Agreement: a security agreement, in form and substance satisfactory to Agent, executed by each Guarantor pursuant to which Guarantor shall grant to Agent a Lien (for the benefit of the Lenders) in all of such Guarantor's assets.

Security Documents: the Guaranty, each Security Agreement, each Leasehold Mortgage, each Leasehold Mortgage Consent, each Mortgage, Deposit Account Control Agreements, Securities Account Control Agreements, Equity Interest Pledge Agreement, and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

Securitization Subsidiary: one or more direct or indirect Subsidiaries of Parent formed for the purposes of entering into a Permitted ABS Transaction, including Conn Appliances Receivables Funding, LLC, Conn's Receivables Funding I, LP, Conn's Receivables Funding I GP, LLC, and Conn's Receivables, LLC., Conn's Receivables Funding

2017-A, LLC, Conn's Receivables 2017-A Trust, Conn's Receivables Funding 2017-B, LLC, Conn's Receivables 2017-B Trust, Conn's Receivables Warehouse, LLC, and Conn's Receivables Warehouse Trust.

Securitized Contracts: the Contracts and related assets which are subject to a Permitted ABS Transaction.

Senior Officer: the chairman of the board, president, chief executive officer, chief financial officer (or other officer holding a similar role), chief operating officer, treasurer or assistant treasurer of a Borrower or, if the context requires, an Obligor.

Settlement Report: a report summarizing Revolver Loans and participations in LC Obligations outstanding as of a given settlement date, allocated to Lenders on a Pro Rata basis in accordance with their Revolver Commitments.

Solvent: as to any Person, such Person (a) owns Property whose fair salable value is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value (as defined below) is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. "Fair salable value" means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase.

Specified Financial Covenants: as defined in **Section 10.4.1**.

Specified Obligor: an Obligor that is not then an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to **Section 5.11**).

Stated Amount: at any time the amount available to be drawn under a Letter of Credit, including any automatic increase in such amount provided by such Letter of Credit or the related LC Documents.

Subordinated Debt: Debt incurred by a Borrower that is expressly subordinate and junior in right of payment to the Obligations and has a maturity no shorter than, at the time of such incurrence or issuance, ninety-one (91) days after the Revolver Termination Date and has subordination terms reasonably satisfactory to Agent.

Subsidiary: as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors (or equivalent governing body) or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a direct or indirect Subsidiary or Subsidiaries of Parent.

Supermajority Lenders: Lenders holding more than 66 2/3% of (a) the aggregate outstanding Revolver Commitments; or (b) after termination of the Revolver Commitments, the aggregate outstanding Revolver Loans, LC Obligations and other Obligations under the Loan Documents; provided, that Revolver Commitments, Revolver Loans and other Obligations held by a Defaulting Lender and its Affiliates shall be disregarded in making such calculation.

Swap Obligations: with respect to an Obligor, its obligations under an agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

Swingline Lender: JPM (including any Lending Office of JPM).

Swingline Loan: any Borrowing of Base Rate Revolver Loans funded with Agent's funds, until such Borrowing is settled among Lenders or repaid by Borrowers.

Tangible Net Worth: at any date ~~means~~, an amount equal to: (i) the net book value (after deducting related depreciation, obsolescence, amortization, valuation and other proper reserves) at which the Adjusted Tangible Assets of a Person would be shown on a balance sheet at such date in accordance with GAAP, less (ii) the amount at which such Person's liabilities would be shown on such balance sheet, and including as liabilities all reserves for contingencies and other potential liabilities, in each case, in accordance with GAAP, less (iii) for purposes of calculating the financial covenants in **Section 10.3.2** and **10.3.3**, the Tax Adjusted EBITDA Loss Reserve Shortfall at such date.

Tax Adjusted EBITDA Loss Reserve Shortfall: an amount equal to (if a positive result) the product of (i) the difference between (a) the EBITDA Loss Reserve measured as of the end of any Fiscal Quarter or such other determination date, and (b) Parent and its Subsidiaries' recorded loss reserve measured as of the end of the same Fiscal Quarter or such other determination date, multiplied by 100% minus the sum of the applicable federal and state tax rates applicable to Parent and its Subsidiaries.

Tax and Trust Funds: cash, cash equivalents or other assets comprised solely of

(a) funds used for payroll and payroll taxes and other employee benefit payments to or for the benefit of such Person's employees in the current period (which may be monthly or quarterly, as applicable),

(b) all taxes required to be collected, remitted or withheld in the current period (which may be monthly or quarterly, as applicable) (including, without limitation, federal and state withholding taxes (including the employer's share thereof)) and

(c) any other funds which such Person holds in trust or as an escrow or fiduciary for another Person (which is not an Obligor) in the ordinary course of business.

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

Third Amended and Restated Loan Agreement: as defined in the recitals to this Agreement.

Third Amendment: [that certain Third Amendment to Fourth Amended and Restated Loan and Security Agreement, dated June 5, 2020, among the Borrowers, Agent and the various lenders party thereto.](#)

Third Party Contracts: [any loan agreement, account, revolving credit agreement, retail installment sale contract, consumer loan, instrument, note, document, chattel paper, and all other forms of obligations owing to any Borrower or any Subsidiary of a Borrower, including any collateral for any of the foregoing, including all rights under any and all security documents, in each case which does not satisfy the credit criteria under the Credit and Collection Policy and is intended to be sold to a third party in the Ordinary Course of Business promptly following the execution thereof \(and delivery of the product financed thereby\); provided, that \(x\) any purchase and sale agreement related to such Third Party Contract shall provide that such Third Party Contract shall be purchased by such third party within 2 Business Days of its origination and the applicable Borrower or Subsidiary shall take commercially reasonable efforts to consummate such sale within 2 Business Days of origination and \(y\) the aggregate outstanding balance of Third Party Contracts owned by Borrowers and their Subsidiaries shall at no time exceed \\$1,000,000.](#)

Threshold Amount: \$25,000,000.

Transferee: any actual or potential Eligible Assignee, Participant or other Person acquiring an interest in any Obligations.

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

U.C.C.: the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

Unused Line Fee Percentage: for any day, a percentage equal to (a) 0.25% per annum if the average daily balance of Revolver Loans and stated amount of Letters of Credit during the immediately preceding quarter is greater than 66% of the Revolver Commitments, (b) 0.375% per annum if the average daily balance of Revolver Loans and stated amount of Letters of Credit during the immediately preceding quarter is greater than 33% of the Revolver Commitments but equal to or less than 66% of the Revolver Commitments, and (c) 0.50% per annum if the average daily balance of Revolver Loans and stated amount of Letters of Credit during the immediately preceding quarter is equal to or less than 33% of the Revolver Commitments.

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

U.S. Tax Compliance Certificate: as defined in **Section 5.10.2(b)(iii)**.

Value: (a) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a moving weighted average cost basis, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates; and (b) for a Credit Card Account, its face amount, reduced by, to the extent not reflected in such face amount ([without duplication and without duplication of eligibility criterion on Eligible Credit Card Accounts](#)), (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that a Borrower may be obligated to rebate to a customer, a Credit Card Processor, or Credit Card Issuer pursuant to the terms of any Credit Card Agreement or understanding (written or oral)), (ii) the aggregate amount of all cash received in respect of such Credit Card Account but not yet applied by a Borrower to reduce the amount of such Credit Card Account, and (iii) the amount of all accrued and unpaid fees owed to Credit Card Processors or Credit Card Issuers.

1.2 Accounting Terms. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that if Borrower Agent notifies Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of (i) any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if Agent notifies Borrower Agent that the Agent requests 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, if an amendment is requested by Borrower Agent or Agent, then Borrower Agent and Agent shall negotiate in good faith to enter into an amendment of such affected provisions (without the payment of any amendment or similar fees to Agent or the Lenders) to preserve the original intent thereof in light of such change in GAAP or the application thereof subject to the approval of the Required Lenders (not to be unreasonably withheld, conditioned or delayed) and (ii) modifications to accounting standards described in Financial Accounting Standards Board (“FASB”) Accounting Standard Update (“ASU”) Topic 842 or any related or similar guidance and/or FASB, ASU, Topic 326 Financial Instruments - Credit Losses or any related or similar guidance, then notwithstanding anything to the contrary contained in this Agreement, Borrower Agent and Agent shall negotiate in good faith to enter into an amendment of the covenants (without the payment of any Amendment or similar fees to Agent or the Lenders) set forth to preserve the original intent thereof in light of such changes in GAAP or the application thereof, which amendment or amendments under this clause (ii) shall not require the consent of the Lenders and shall be effective upon the posting of such amendment to the Lenders.

1.3 Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC in effect in the State of New York from time to time: “Account”, “Account Debtor”, “Chattel Paper”, “Commercial”

Tort Claim”, “Deposit Account”, “Document”, “Equipment”, “General Intangibles”, “Goods”, “Instrument”, “Investment Property”, “Letter-of-Credit Right”, “Securities Account” and “Supporting Obligation”.

1.4 Certain Matters of Construction. The terms “herein,” “hereof,” “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders and the neuter form. In the computation of periods of time from a specified date to a later specified date, “from” means “from and including,” and “to” and “until” each mean “to but excluding.” The terms “including” and “include” shall mean “including, without limitation” and, for purposes of each Loan Document, the parties agree that the rule of ejusdem generis shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement (including any Loan Document and any Organic Document) include any amendments, restatements, amendments, restatements, supplements, modifications, replacements, renewals, extensions and refinancings from time to time (to the extent permitted by the Loan Documents); (c) any section means, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and permitted assigns; and (f) time of day means Central time (daylight or standard, as applicable). All determinations (including calculations of Borrowing Base and financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Reference to a Borrower’s “knowledge” or words of similar import means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained in good faith and diligent performance of his or her duties.

1.5 Payment and Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Base Rate, Prime Rate, Federal Funds Effective Rate or Interest Period) or performance shall extend to the immediately succeeding Business Day.

1.6 Compliance with this Agreement. For purposes of determining the permissibility of any action, change, transaction or event that by the terms of the Loan Documents requires a calculation of any financial ratio or test, such financial ratio or test shall be calculated at the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in such financial ratio or test occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

1.7 Classification. For purposes of determining compliance at any time with **Sections 10.2.1, 10.2.2, 10.2.4, 10.2.5, 10.2.6, 10.2.8, 10.2.9, 10.2.14, and 10.2.17 (and any definition used therein)** in the event that any Debt, Lien, Distribution, Restricted Investment, Asset Disposition, payment, prepayment, redemption, repurchase, retirement, defeasance or acquisition, merger, combination, consolidation, liquidation, winding up or dissolution, Restrictive Agreement, or Affiliate transaction meets the criteria of more than one (1) of the categories of transactions or items permitted pursuant to any clause of such **Sections 10.2.1, 10.2.2, 10.2.4, 10.2.5, 10.2.6, 10.2.8, 10.2.9, 10.2.14, and 10.2.17 (and any definition used therein)**, Borrower, in its sole discretion, may classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one (1) category.

1.8 Certain Calculations. (a)

(a) Subject to the immediately succeeding clauses (b) and (c) and **Section 1.6** above, notwithstanding anything to the contrary contained herein, financial ratios and tests (including the Interest Coverage Ratio, the Leverage Ratio and the ABS Excluded Leverage Ratio) pursuant to this Agreement shall be calculated in the manner prescribed by the definition of “Pro Forma Basis.”

(b)

(b) Notwithstanding anything to the contrary herein (including in connection with any calculation made on a Pro Forma Basis), to the extent that the terms of this Agreement require (i) compliance with any financial ratio or test (including the Interest Coverage Ratio, the Leverage Ratio and the ABS Excluded Leverage Ratio and the component definitions of any of the foregoing), (ii) the absence of a Default or Event of Default (or any type of Default or Event of Default) or (iii) the making of any representation or warranty, in each case as a condition to (A) the consummation of any transaction in connection with any acquisition or similar Investment (including the assumption or incurrence of Debt), (B) the making of any ~~Restricted Payment~~Distribution and/or (C) the making of any restricted Debt payment, in each case in connection with a Limited Condition Acquisition, at the election of Borrowers (the "LCA Election"), the determination of whether the relevant condition is satisfied may be made at the time (the "LCA Test Time") of (or on the basis of the financial statements for the most recently ended fiscal period at the time of) the execution of the definitive agreement with respect to such Limited Condition Acquisition. If Borrowers have made an LCA Election, then, in connection with any calculation of any financial ratio or test (other than with respect to determining the Applicable Margin and actual (as opposed to pro forma) compliance with the Financial Covenants) following such LCA Test Time and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the definitive agreement with respect thereto is terminated, any such financial ratio or test shall be calculated (and tested) on a Pro Forma Basis assuming such Limited Condition Acquisition and other subject transactions in connection therewith have been consummated. (e)

(c) Notwithstanding anything to the contrary contained in this **Section 1.8** or otherwise, for purposes of determining actual compliance with the financial covenants set forth in **Section 10.3**, any such adjustments shall only include events that occurred during the relevant measurement period for such financial covenant.

Section 2. CREDIT FACILITIES

2.1 Revolver Commitment.

2.1.1 Revolver Loans. Each Lender agrees, severally on a Pro Rata basis up to its Revolver Commitment, on the terms set forth herein, to make Revolver Loans to Borrowers from time to time through the Revolver Commitment Termination Date. The Revolver Loans may be repaid and reborrowed as provided herein. In no event shall Lenders have any obligation to honor a request for a Revolver Loan (x) by CAI if the CAI Revolver Usage would exceed the CAI Borrowing Base, (y) by CCI or CCCI if the CCI Revolver Usage would exceed the CCI Borrowing Base, or (z) by any Borrower if the Revolver Usage would exceed the Borrowing Base.

2.1.2 Revolver Notes. The Revolver Loans made by each Lender and interest accruing thereon shall be evidenced by the records of Agent and such Lender. At the request of any Lender, Borrowers shall deliver a Revolver Note to such Lender.

2.1.3 Use of Proceeds. The proceeds of Revolver Loans shall be used by Borrowers solely (a) to pay fees and transaction expenses associated with the closing of this credit facility; (b) to pay Obligations in accordance with this Agreement; and (c) for working capital and other lawful corporate purposes of Borrowers. No Borrower shall, directly or, to its knowledge, indirectly, use any Letter of Credit or Loan proceeds, nor use, lend, contribute or otherwise make available any Letter of Credit or Loan proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of issuance of the Letter of Credit or funding of the Loan, is the target of any Sanction; or (ii) in any manner that would result in a violation of a Sanction by such Person.

2.1.4 Voluntary Reduction or Termination of Revolver Commitments.

(a) The Revolver Commitments shall terminate on the Revolver Commitment Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least 5 Business Days (or such shorter period of time as may be reasonably acceptable to Agent and which advance notice may be waived by Agent in its sole discretion) prior written notice to Agent, Borrowers may, at their option, terminate the Revolver Commitments and this Agreement. Any notice of termination given by Borrowers shall be irrevocable; provided that

such notice may state that such notice is conditioned upon the effectiveness of other credit facilities or transactions, in which case such notice may be revoked by Borrowers (by notice to Agent on or prior to the specified effective date) if such condition is not satisfied. On the date specified in such notice of termination, Borrowers shall make Full Payment of all Obligations under the Loan Documents.

(b) The Borrowers may permanently reduce the Revolver Commitments, on a Pro Rata basis for each Lender, upon at least 5 Business Days (or such shorter period of time as may be reasonably acceptable to Agent and which advance notice may be waived by Agent in its sole discretion) prior written notice to Agent, which notice shall specify the amount of the reduction and shall be irrevocable once given; provided, that Borrowers may not permanently reduce the Revolver Commitments to an amount less than \$250,000,000. Each reduction shall be in a minimum amount of \$25,000,000, or an increment of \$5,000,000 in excess thereof.

2.1.5 Overadvances. If the CAI Revolver Usage exceeds the CAI Borrowing Base, CCI Revolver Usage exceeds the CCI Borrowing Base, or Revolver Usage exceeds the Borrowing Base (in each case, an “Overadvance”), the excess amount shall be payable by Borrowers on demand by Agent, but all such Revolver Loans shall nevertheless constitute an Obligation secured by the Collateral entitled to all benefits of the Loan Documents. Agent may require Lenders to fund Base Rate Revolver Loans that cause or constitute an Overadvance and to forbear from requiring Borrowers to cure an Overadvance, (a) unless its authority has been revoked in writing by Required Lenders, as long as the total Overadvance does not exceed \$15,000,000 in the aggregate and does not continue for more than 30 consecutive days and (b) if Agent discovers an Overadvance not previously known by it to exist, as long as from the date of such discovery, the Overadvance (i) is not increased by more than \$5,000,000, and (ii) does not continue for more than 30 consecutive days. In no event shall Loans be made that would cause the Revolver Usage to exceed the aggregate Revolver Commitments. The making of any Overadvance shall not create nor constitute a Default or an Event of Default; it being understood that funding or continuance of an Overadvance shall not constitute a waiver by Agent or Lenders of any Event of Default then existing. No Obligor shall be a beneficiary of this Section nor authorized to enforce any of its terms.

2.1.6 Protective Advances. Agent shall be authorized, in its sole discretion, at any time that any conditions in **Section 6** are not satisfied, to make Base Rate Revolver Loans (a) up to an aggregate amount not to exceed at any time the lesser of (i) the aggregate Revolver Commitments, and (ii) the outstanding amount of \$15,000,000, if Agent deems such Revolver Loans necessary or desirable to preserve or protect Collateral, or to enhance the collectability or repayment of Obligations; or (b) to pay any other amounts chargeable to Obligors under any Loan Documents, including costs, fees and expenses (such Revolver Loans are referred to herein as “Protective Advances”). Each Lender shall participate in each Protective Advance on a Pro Rata basis. Required Lenders may at any time revoke Agent’s authority to make further Protective Advances by written notice to Agent. Absent such revocation, Agent’s determination that funding of a Protective Advance is appropriate shall be conclusive.

2.2 Increase in Revolver Commitments. The Borrowers may request an increase in Revolver Commitments from time to time upon notice to Agent, as long as (a) the requested increase is in a minimum amount of \$10,000,000 and is offered on the same terms as existing Revolver Commitments, other than in respect of fees specified by Borrowers, (b) total aggregate increases in the Revolver Commitments pursuant to this Section do not exceed \$300,000,000, and (c) no more than six (6) (or such greater number as shall be reasonably acceptable to Agent) such increases are requested during the term of this Agreement. Agent shall promptly notify Lenders of the requested increase and, within 5 Business Days thereafter, each Lender shall notify Agent if and to what extent such Lender commits to increase its Revolver Commitment. Any Lender not responding within such period shall be deemed to have declined an increase. If Lenders fail to commit to the full requested increase, Eligible Assignees may issue additional Revolver Commitments and become Lenders hereunder. Agent may allocate, in its discretion and with the consent of Borrower Agent, the increased Revolver Commitments among committing Lenders and, if necessary, Eligible Assignees. Total Revolver Commitments shall be increased by the requested amount (or such lesser amount committed by Lenders and Eligible Assignees) on a date agreed upon by Agent and Borrower Agent, provided that (i) the conditions set forth in **Section 6.2(a)** and **(b)** are satisfied or waived by the Lenders providing such Revolver Commitment increase at such time and (ii) to the extent any portion of the Obligations are secured by a Mortgage or Leasehold Mortgage, flood insurance diligence and documentation have been completed as required by all Flood Laws

or otherwise in a manner satisfactory to all Lenders, Agent, Borrowers. On the effective date of an increase, the Revolver Usage and other exposures under the Revolver Commitments shall be reallocated among Lenders, and settled by Agent as necessary, in accordance with Lenders' adjusted shares of such Revolver Commitments. Notwithstanding the foregoing or anything to the contrary contained in the Loan Documents (including **Section 14.1**), if the rate of interest, the Unused Line Fee or similar fee or interest rate applicable to the increase in Revolver Commitments exceeds the rate of interest, the Unused Line Fee or similar fee or interest rate of the existing Revolver Loans, (i) the Borrowers may, at the sole option of Borrower Agent, decline such increase in the Revolver Commitments or (ii) such rate of interest and/or fee shall be increased in excess of the rate of interest and/or fee applicable thereto to match that applicable to the increased Revolver Commitment without the consent of any Person, other than the Lenders and other Persons providing the relevant increased Revolver Commitment, Agent and the Borrowers.

2.3 Letter of Credit Facility.

2.3.1 **Issuance of Letters of Credit.** Issuing Bank agrees to issue Letters of Credit from time to time until the Revolver Commitment Termination Date, on the terms set forth herein, including the following:

(a) Each Borrower acknowledges that Issuing Bank's issuance of any Letter of Credit is conditioned upon Issuing Bank's receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Issuing Bank may customarily require for issuance of a letter of credit of similar type and amount. Issuing Bank shall have no obligation to issue any Letter of Credit unless (i) Issuing Bank receives a LC Request and LC Application prior to 9:00 a.m., at least three (3) Business Days prior to the requested date of issuance (which shall be a Business Day); (ii) each LC Condition is satisfied and (iii) if a Defaulting Lender exists and the Fronting Exposure of such Defaulting Lender in respect of such Letter of Credit cannot be reallocated to non-Defaulting Lenders pursuant to **Section 4.2**, Borrower shall have Cash Collateralized the applicable Fronting Exposure as set forth in **Section 2.3.3**. If, in sufficient time to act, Issuing Bank receives written notice from Agent or Required Lenders that a LC Condition has not been satisfied, Issuing Bank shall have no obligation to issue the requested Letter of Credit (or any other) until such notice is withdrawn in writing by the Required Lenders or until Required Lenders have waived such condition in accordance with this Agreement. Prior to receipt of any such notice, Issuing Bank shall not be deemed to have knowledge of any failure of LC Conditions.

(b) Letters of Credit may be requested by a Borrower to support working capital and other lawful corporate purposes. Increase, renewal or extension of a Letter of Credit shall be treated as an issuance of a new Letter of Credit, except that Issuing Bank may require a new LC Application in its reasonable discretion.

(c) The Borrowers assume all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with any Letter of Credit, none of Agent, Issuing Bank or any Lender shall be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and a Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Issuing Bank, Agent or any Lender, including any act or omission of a Governmental Authority. Issuing Bank shall be fully subrogated to the rights and remedies of any beneficiary whose claims against any Borrower are discharged with proceeds of a Letter of Credit. The rights and remedies of Issuing Bank under the Loan Documents shall be cumulative.

(d) In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Issuing Bank shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Issuing Bank, in good faith,

to be genuine and correct and to have been signed, sent or made by a proper Person. Issuing Bank use legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Issuing Bank may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence of agents and attorneys-in-fact selected with reasonable care.

(e) All Existing Letters of Credit shall be deemed to have been issued pursuant to this Agreement, and from and after the Closing Date shall be subject to and governed by the terms and conditions set forth herein.

(f) Notwithstanding the foregoing or anything to the contrary contained in the Loan Documents, the Agent, Issuing Bank and/or Lender, as applicable, shall confirm that Documents and certificates required to be submitted in connection with any Letter of Credit, on their face, comply with the terms of such Letter of Credit as may be required by the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance of the applicable Letter of Credit or the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc., as applicable.

2.3.2 Reimbursement; Participations.

(a) If an Issuing Bank honors any request for payment under a Letter of Credit, such Issuing Bank shall give written notice of such payment to Agent and Borrower Agent, and Borrowers shall pay to Issuing Bank (i) to the extent Borrower Agent receives written notice from the relevant Issuing Bank by 9:00 a.m., on the date of such payment, on the same day and (ii) otherwise, on the immediately succeeding Business Day ("Reimbursement Date"), the amount paid by Issuing Bank under such Letter of Credit, together with interest at the interest rate for Base Rate Revolver Loans from the Reimbursement Date until payment by Borrowers. Subject to the rights of Borrowers' under **Section 2.3.2(d)**, the obligation of Borrowers to reimburse Issuing Bank for any payment made under a Letter of Credit shall be absolute, unconditional, irrevocable, and joint and several, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Whether or not Borrower Agent submits a Notice of Borrowing, Borrowers shall be deemed to have requested a Borrowing of Base Rate Revolver Loans in an amount necessary to pay all amounts due Issuing Bank on any Reimbursement Date and each Lender shall fund its Pro Rata share of such Borrowing whether or not the Revolver Commitments have terminated, an Overadvance exists or is created thereby, or the conditions in **Section 6.2** are satisfied.

(b) Each Lender hereby irrevocably and unconditionally purchases from Issuing Bank, without recourse or warranty, an undivided Pro Rata participation in all LC Obligations outstanding from time to time. Issuing Bank is issuing Letters of Credit in reliance upon this participation. If Borrowers do not make a payment to Issuing Bank when due hereunder, Agent shall promptly notify Lenders and each Lender shall within one Business Day after such notice pay to Agent, for the benefit of Issuing Bank, the Lender's Pro Rata share of such payment. Upon request by a Lender, Issuing Bank shall provide copies of Letters of Credit and LC Documents in its possession at such time.

(c) The obligation of each Lender to make payments to Agent for the account of Issuing Bank in connection with Issuing Bank's payment under a Letter of Credit shall be absolute, unconditional and irrevocable, not subject to any counterclaim, setoff, qualification or exception whatsoever, and shall be made in accordance with this Agreement under all circumstances, irrespective of any lack of validity or unenforceability of any Loan Documents; any draft, certificate or other document presented under a Letter of Credit having been determined to be forged, fraudulent, noncompliant, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; any waiver by Issuing Bank of a requirement that exists for its protection (and not a Borrower's protection) or that does not materially prejudice a Borrower; any honor of an electronic demand for payment even if a draft is required; any payment of an item presented after a Letter of Credit's expiration date if authorized by the UCC or applicable customs or practices; or any setoff or defense that an Obligor may have with respect to any Obligations. Issuing Bank does not assume any responsibility for any failure or delay in performance or any breach by any Borrower

or other Person of any obligations under any LC Documents. Issuing Bank does not make to Lenders any express or implied warranty, representation or guaranty with respect to any Letter of Credit, Collateral, LC Document or Obligor. Issuing Bank shall not be responsible to any Lender for any recitals, statements, information, representations or warranties contained in, or for the execution, validity, genuineness, effectiveness or enforceability of any LC Documents; the validity, genuineness, enforceability, collectability, value or sufficiency of any Collateral or the perfection of any Lien therein; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor.

(d) No Issuing Bank Indemnitee shall be liable to any Lender or other Person for any action taken or omitted to be taken in connection with any Letter of Credit or LC Document except as a result of its gross negligence, willful misconduct or bad faith.

2.3.3 Cash Collateral. Subject to **Section 2.1.5**, at Agent's or Issuing Bank's request, Borrowers shall Cash Collateralize (a) the Fronting Exposure of any Defaulting Lender which has not been reallocated to non-Defaulting Lenders as set forth in **Section 4.2.1** or Cash Collateralized pursuant to **Section 4.2.2**, and (b) if an Event of Default exists or the Revolver Commitment Termination Date has occurred, all outstanding Letters of Credit. If Borrowers fail to provide any Cash Collateral as required hereunder, Lenders may (and shall upon direction of Agent) advance, as Revolver Loans, the amount of Cash Collateral required (whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied).

2.3.4 Resignation of Issuing Bank. Issuing Bank may resign at any time upon notice to Agent and Borrowers, and any resignation of Agent hereunder shall automatically constitute its concurrent resignation as Issuing Bank. From the effective date of its resignation, Issuing Bank shall have no obligation to issue, amend, renew, extend or otherwise modify any Letter of Credit, but shall otherwise have all rights and obligations of an Issuing Bank hereunder relating to any Letter of Credit then outstanding and issued by it prior to such date. A replacement Issuing Bank may be appointed by written agreement among Agent, Borrower Agent and the new Issuing Bank. From and after the effective date of any such replacement, (a) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (b) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require.

2.3.5 Inconsistencies with LC Documents. In the event of any conflict or inconsistency between terms and conditions contained in both this Agreement and in any LC Document (as distinguished from additional terms contained in the LC Documents covering matters not addressed in this Agreement, as to which this provision shall not apply), the terms and conditions of this Agreement shall control.

2.3.6 Issuing Bank Reports to Agent. Unless otherwise agreed by Agent, Issuing Bank (other than Agent) shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to Agent (i) periodic activity (for such period or recurrent periods as shall be requested by Agent) in respect of Letters of Credit issued by Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancelations and all disbursements and reimbursements, (ii) reasonably prior to the time that 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 Issuing Bank honors any request for payment under a Letter of Credit, the date and amount of such payment, (iv) on any Business Day on which any Borrower fails to reimburse Issuing Bank pursuant to **Section 2.3.2(a)**, the date of such failure and the amount owed pursuant to **Section 2.3.2(a)**, and (v) on any other Business Day, such other information as Agent shall reasonably request as to the Letters of Credit issued by Issuing Bank.

Section 3. INTEREST, FEES AND CHARGES

3.1 Interest.

3.1.1 Rates and Payment of Interest.

(a) The Obligations under the Loan Documents shall bear interest (i) if a Base Rate Revolver Loan, on the outstanding principal amount thereof at a rate per annum equal to the Base Rate in effect from time to time, plus the Applicable Margin; (ii) if a LIBOR Revolver Loan, on the outstanding principal amount thereof at LIBOR for the applicable Interest Period, plus the Applicable Margin; and (iii) if any other Obligation under the Loan Documents (including, to the extent permitted by law, interest not paid when due) to the extent not paid when due, at the Base Rate in effect from time to time, plus the Applicable Margin for Base Rate Revolver Loans. Interest shall accrue from the date the Revolver Loan is advanced or the Obligation is payable, until paid by Borrowers. If a Revolver Loan is repaid on the same day made, one day's interest shall accrue.

(b) During an Insolvency Proceeding with respect to any Borrower, or during any other Event of Default if Agent or Required Lenders in their discretion so elect, Obligations under the Loan Documents shall bear interest at the Default Rate (whether before or after any judgment), payable on demand.

(c) Interest accrued on the Revolver Loans shall be due and payable in arrears, (i) on the first day of each month and (ii) on the Revolver Commitment Termination Date. Interest accrued on any Secured Bank Product Obligations shall be due and payable as provided in the applicable agreements between the relevant Secured Bank Product Provider and the relevant Obligor.

(d) If due to inaccurate reporting in any Borrower Materials, prior to the Revolver Termination Date, it is determined that a higher Applicable Margin should have applied to a period than was actually applied, then the proper margin shall be applied retroactively and Borrowers shall promptly pay to Agent, for the ratable benefit of Lenders, an amount equal to the difference between the amount of interest and fees that would have accrued using the proper margin and the amount actually paid. All amounts payable by Borrowers under this Section shall be due promptly on demand.

3.1.2 Application of LIBOR to Outstanding Revolver Loans.

(a) The Borrowers may on any Business Day, elect to convert any portion of the Base Rate Revolver Loans to, or to continue any LIBOR Revolver Loan at the end of its Interest Period as, a LIBOR Revolver Loan. During the existence of any Event of Default, Agent may (and shall, at the direction of Required Lenders), declare that no Revolver Loan may be made, converted to or continued as a LIBOR Revolver Loan.

(b) To convert or continue Revolver Loans as LIBOR Revolver Loans, Borrower Agent shall give Agent a Notice of Conversion/Continuation, no later than 10:00 a.m. at least three (3) Business Days (or such shorter period agreed by Agent) before the requested conversion or continuation date. Promptly after receiving any such notice, Agent shall notify each Lender thereof. Each Notice of Conversion/Continuation shall be irrevocable, and shall specify the amount of Revolver Loans to be converted or continued, the conversion or continuation date (which shall be a Business Day), and the duration of the Interest Period (which shall be deemed to be one month if not specified). If, upon the expiration of any Interest Period for any LIBOR Revolver Loans, Borrowers shall have failed to deliver a Notice of Conversion/Continuation, they shall be deemed to have elected to convert such Revolver Loan into a Base Rate Revolver Loan. Agent does not warrant or accept responsibility for, nor shall it have any liability with respect to, administration, submission or any other matter related to any rate described in the definition of LIBOR.

3.1.3 Interest Periods. The Borrowers shall select an interest period ("Interest Period") of 30, 60, 90 or 180 days to apply to each LIBOR Revolver Loan; provided, that:

(a) the Interest Period shall begin on the date the Revolver Loan is made or continued as, or converted into, a LIBOR Revolver Loan, and shall expire on the numerically corresponding day in the calendar month at its end;

(b) if any Interest Period begins on a day for which there is no corresponding day in the calendar month at its end or if such corresponding day falls after the last Business Day of such month, then the Interest Period shall expire on the last Business Day of such month; and if any Interest Period would otherwise expire on a day that is not a Business Day, the period shall expire on the next Business Day; and

(c) no Interest Period shall extend beyond the Revolver Termination Date.

3.2 Fees.

3.2.1 **Unused Line Fee.** The Borrowers shall pay to Agent, for the Pro Rata benefit of Lenders (other than any Defaulting Lender), a fee equal to the Unused Line Fee Percentage times the amount by which the Revolver Commitments (other than the Revolving Commitments of Defaulting Lenders) exceed the average daily Revolver Usage during any month. Such fee shall be payable monthly in arrears, on the first day of each month and on the Revolver Commitment Termination Date.

3.2.2 **LC Facility Fees.** The Borrowers shall pay (a) to Agent, for the Pro Rata benefit of Lenders, a fee equal to the Applicable Margin in effect for LIBOR Revolver Loans times the average daily Stated Amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (b) to each Issuing Lender, for its own account, a fronting fee equal to 0.125% per annum on the Stated Amount of each Letter of Credit issued by such Issuing Lender, which fee shall be payable monthly in arrears, on the first day of each month; and (c) to each Issuing Bank, for its own account, all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit issued by such Issuing Lender, which charges shall be paid as and when incurred.

3.2.3 **Agent Fees.** In consideration of arrangement and syndication of the Revolver Commitments and other services provided hereunder, Borrowers shall pay to Agent the fees described in the Fee Letter.

3.3 Computation of Interest, Fees, Yield Protection. All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed, based on a year of 360 days. Each determination by Agent of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. All fees shall be fully earned when due and shall not be subject to rebate, refund or proration. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate setting forth in reasonable detail the calculation of the amount or amounts payable by Borrowers under **Section 3.4, 3.6, 3.7, 3.9** or **5.9**, submitted to Borrower Agent by Agent or the affected Lender, as applicable, shall be final, conclusive and binding for all purposes, absent manifest error; provided that such certificate from each such Lender or Issuing Bank shall contain a certification to Borrowers that such Lender or Issuing Bank is generally requiring reimbursement for the relevant amounts from similarly situated borrowers under comparable syndicated credit facilities. The Borrowers shall pay such amounts to the appropriate party within 30 days following receipt of the certificate.

3.4 Reimbursement Obligations. The Borrowers shall pay all Extraordinary Expenses within 10 Business Days of receipt of an invoice (in reasonable detail and accompanied by backup documentation). The Borrowers shall also reimburse Agent for all reasonable and documented out-of-pocket legal, examination and appraisal fees and expenses (in the case of legal fees and expenses, fees and expenses of one lead firm of counsel to Agent and, if necessary, one (1) local counsel in each relevant local jurisdiction to Agent incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Agent's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, any examination or appraisal with respect to any Obligor or Collateral by Agent's personnel or a third party. All legal fees shall be charged to Borrowers by Agent's professionals at their standard hourly rates, regardless of any alternative fee arrangements that Agent, any Lender or any of their Affiliates may have with such professionals that otherwise might apply to this or any other transaction. The Borrowers

acknowledge that counsel may provide Agent with a benefit (such as a discount, credit or accommodation for other matters) based on counsel's overall relationship with Agent, including fees paid hereunder.

3.5 Illegality. If any Lender reasonably determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender to make, maintain or fund LIBOR Revolver Loans, or to determine or charge interest based on LIBOR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on written notice thereof by such Lender to Agent and Borrower Agent, any obligation of such Lender to make or continue LIBOR Revolver Loans or to convert Base Rate Revolver Loans to LIBOR Revolver Loans, shall be suspended until such Lender notifies Agent that the circumstances giving rise to such determination no longer exist. Upon delivery of such notice, Borrowers shall prepay or, if applicable, convert all LIBOR Revolver Loans of such Lender to Base Rate Revolver Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBOR Revolver Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Revolver Loans. Upon any such prepayment or conversion, Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.6 Inability to Determine Rates.

(a) Agent will promptly notify Borrower Agent and Lenders if, in connection with any LIBOR Revolver Loan or request for a LIBOR Revolver Loan, (i) Agent determines that (1) Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable LIBOR Revolver Loan amount or Interest Period, (2) adequate and reasonable means do not exist for determining LIBOR for the Interest Period or (3) any Interest Period is not available on the basis provided herein; or (ii) Agent or Required Lenders determine for any reason that LIBOR for the Interest Period does not adequately and fairly reflect the cost to Lenders of funding the LIBOR Revolver Loan. Thereafter, Lenders' obligations to make or maintain affected LIBOR Revolver Loans (and utilization of the LIBOR component (if affected) in determining Base Rate) or to make available such Interest Period shall be suspended until Agent (upon instruction by Required Lenders in the case of clause (ii) of the preceding sentence) withdraws the notice, which withdrawal notice Agent agrees to send promptly (and instruction the Lenders agree to give promptly to Agent), in each case when the circumstances giving rise to such suspension no longer exist. Upon receipt of such notice, Borrower Agent may revoke any pending request for a LIBOR Revolver Loan or, failing that, will be deemed to have requested a Base Rate Revolver Loan.

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

(i) adequate and reasonable means do not exist for ascertaining LIBOR for any requested Interest Period because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary, or

(ii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Agent has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans denominated in the applicable currency (such specific date, the "Scheduled Unavailability Date"), or

(iii) syndicated loans currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, then, reasonably promptly after such determination by the Agent or receipt by the Administrative Agent of such notice, as applicable, the Agent and the Borrowers may amend this Agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar

syndicated credit facilities denominated in the applicable currency for such alternative benchmarks (any such proposed rate, a “LIBOR Successor Rate”), together with any proposed LIBOR Successor Rate Conforming Changes and any such amendment (a “LIBOR Successor Amendment”), shall become effective at 5:00 p.m. on the fifth Business Day after the Agent shall have posted such proposed LIBOR Successor Amendment to all Lenders and the Borrowers unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders do not accept such LIBOR Successor Amendment (in which case, the Agent and the Borrower Agent may propose an alternative LIBOR Successor Amendment).

If no LIBOR Successor Rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Agent will promptly so notify the Borrower Agent and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain LIBOR Revolver Loans shall be suspended (to the extent of the affected LIBOR Rate Loans or Interest Periods), and (y) then the LIBOR component shall no longer be utilized in determining the Base Rate. Upon receipt of such notice, Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of LIBOR Rate Loans (to the extent of the affected LIBOR Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Revolver Loans (subject to the foregoing clause (y)) in the amount specified therein.

Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than ~~zero~~0.75% for purposes of this Agreement.

3.7 Increased Costs; Capital Adequacy.

3.7.1 Increased Costs Generally. If any Change in Law shall:

(a) Impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any reserve requirement reflected in calculating LIBOR) or Issuing Bank;

(b) subject any Recipient to Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (iii) Connection Income Taxes) with respect to any Revolver Loan, Letter of Credit, Revolver Commitment or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(c) impose on any Lender or Issuing Bank or the London interbank market any other condition affecting this Agreement or any other Loan Document or any LIBOR Revolver Loans made by such Lender or any Letter of Credit, participation in LC Obligations;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining, converting or continuing any LIBOR Revolver Loan (or of maintaining its obligation to make any such LIBOR Revolver Loan) or to increase the cost to a Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by a Lender or Issuing Bank hereunder (whether of principal, interest or any other amount) then, within 30 days of receipt of a certificate of the type specified in **Section 3.3** from such Lender or Issuing Bank, as applicable, Borrowers will pay to it such additional amount(s) as will compensate it for the additional costs incurred or reduction suffered.

3.7.2 Capital Requirements. If a Lender or Issuing Bank determines that a Change in Law affecting such Lender or Issuing Bank or such Lender’s or Issuing Bank’s holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender’s, Issuing Bank’s or holding company’s capital as a consequence of this Agreement, or such Lender’s or Issuing Bank’s Revolver Commitments, or the Loans made by, or participations in LC Obligations or Swingline Loans held by such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender, 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), then from time to time within 30 days of receipt of a certificate of the type specified in **Section 3.3**, Borrowers will pay to such Lender or Issuing Bank, as the case may be, such additional amounts as will compensate it or such Lender's or Issuing Bank's holding company for the reduction suffered.

3.7.3 **Compensation.** 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 its right to demand such compensation, but Borrowers shall not be required to compensate a Lender or Issuing Bank for any increased costs or reductions suffered more than 90 days (plus any period of retroactivity of the Change in Law giving rise to the demand) prior to the date that the Lender or Issuing Bank notifies Borrower Agent of the applicable Change in Law and of such Lender's or Issuing Bank's intention to claim compensation therefor.

3.8 Mitigation. If any Lender gives a notice under **Section 3.5** or requests compensation under **Section 3.7**, or if Borrowers are required to pay any Indemnified Taxes or additional amounts with respect to a Lender under **Section 5.9**, then such Lender shall use reasonable efforts to designate a different Lending Office or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender, such designation or assignment (a) would eliminate the need for such notice or reduce amounts payable or to be withheld in the future, as applicable; and (b) would not subject the Lender to any unreimbursed cost or expense and would not otherwise be materially disadvantageous to it or unlawful. The Borrowers shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.9 Funding Losses. If for any reason (a) any Borrowing, conversion or continuation of a LIBOR Revolver Loan does not occur on the date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn), (b) any repayment or conversion of a LIBOR Revolver Loan (other than the LIBOR Revolver Loans made on the Second Amendment Effectiveness Date) occurs on a day other than the end of its Interest Period, (c) Borrowers fail to repay a LIBOR Revolver Loan when required hereunder, or (d) a Lender (other than a Defaulting Lender) is required to assign a LIBOR Revolver Loan prior to the end of its Interest Period pursuant to **Section 13.4**, then Borrowers shall pay to each Lender all losses, expenses and fees (other than loss of margin) arising from redeployment of funds or termination of match funding. For purposes of calculating amounts payable under this Section, a Lender shall be deemed to have funded a LIBOR Revolver Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and period, whether or not the Revolver Loan was in fact so funded. Such loss and expense to any Lender shall be deemed to be the amount reasonably determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such LIBOR Revolver Loan had such event not occurred, at the LIBOR rate that would have been applicable to such LIBOR Revolver Loan but exclusive of the Applicable Margin relating 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 LIBOR Revolver Loan), over (ii) the amount of interest which 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 Dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to Borrower and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

3.10 Maximum Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Applicable Law ("maximum rate"). If Agent or any Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations under the Loan Documents or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Agent or a Lender exceeds the maximum rate, such Person may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations under the Loan Documents.

Section 4. LOAN ADMINISTRATION

4.1 Manner of Borrowing and Funding Revolver Loans.

4.1.1 Notice of Borrowing.

(a) To request Revolver Loans, Borrower Agent shall give Agent a Notice of Borrowing no later than (i) 12:00 noon on the requested funding date, in the case of Base Rate Revolver Loans, and (ii) 12:00 noon, at least three (3) Business Days (or such shorter period agreed by Agent) prior to the requested funding date, in the case of LIBOR Revolver Loans; provided, that with respect to Revolver Loans made on the Second Amendment Effectiveness Date, such notice shall be provided on the requested funding date. Notices received by Agent after such time shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify (A) which Borrower is requesting a Revolver Loan, (B) the amount of the Borrowing, (C) the requested funding date (which must be a Business Day), (D) whether the Borrowing is to be made as a Base Rate Revolver Loan or LIBOR Revolver Loan, and (E) in the case of a LIBOR Revolver Loan, the applicable Interest Period (which shall be deemed to be one month if not specified).

(b) Unless payment is otherwise made by Borrowers, the due date of any Obligation under the Loan Documents (whether principal, interest, fees or other charges under the Loan Documents, including Extraordinary Expenses, LC Obligations and Cash Collateral but, for purposes of clarity, excluding Secured Bank Product Obligations unless otherwise agreed by the Borrower Agent and the Secured Bank Product Provider in writing) shall be deemed to be a request for a Base Rate Revolver Loan on the due date in the amount due and the Loan proceeds shall be disbursed as direct payment of such Obligation. In addition, Agent may, at its option, charge such amount against any Deposit Account (other than an Excluded Account ~~containing Tax and Trust Funds~~) of a Borrower maintained with Agent or any of its Affiliates.

(c) If a Borrower maintains a disbursement account with Agent or any of its Affiliates, then presentation for payment of a Payment Item in the account when there are insufficient funds to cover it shall be deemed to be a request for a Base Rate Revolver Loan on the presentation date, in the amount of the Payment Item. Proceeds of such Loan may be disbursed directly to the account.

4.1.2 Funding by Lenders. Agent shall promptly notify Lenders of each Notice of Borrowing (or deemed request for a Borrowing) by 12:00 noon on the proposed funding date for a Base Rate Revolver Loan or by 3:00 p.m. two (2) Business Days before a proposed funding of a LIBOR Revolver Loan. Each Lender shall fund its Pro Rata share of a Borrowing in immediately available funds not later than 2:00 p.m. on the requested funding date, unless Agent's notice is received after the time provided above, in which case Lender shall fund by 1:00 p.m. on the next Business Day; provided that, Swingline Loans shall be made as provided in **Section 4.1.3**. Subject to its receipt of such amounts from Lenders, Agent shall disburse the Borrowing proceeds in a manner directed by Borrower Agent. Unless Agent receives (in sufficient time to act) written notice from a Lender that it will not fund its Pro Rata share of a Borrowing, Agent may assume that such Lender has deposited or promptly will deposit its share with Agent, and Agent may disburse a corresponding amount to Borrowers. If a Lender's share of a Borrowing or of a settlement under **Section 4.1.3(b)** is not received by Agent, then Borrowers agree to repay to Agent on demand the amount of such share, together with interest thereon from the date disbursed until repaid, at the rate applicable to such Borrowing; provided that such Lender shall continue to be a Defaulting Lender and Borrowers payments hereunder shall not constitute a waiver or release of claims of Borrowers against such Lender. Agent, a Lender or Issuing Bank may fulfill its obligations under Loan Documents through one or more Lending Offices, and this shall not affect any obligation of Obligors under the Loan Documents or with respect to any Obligations.

4.1.3 Swingline Loans; Settlement.

(a) To fulfill any request for a Base Rate Revolver Loan hereunder, Agent may in its discretion advance Swingline Loans to Borrowers, up to an aggregate outstanding amount not to exceed 20% of the Revolver Commitments. Each Swingline Loan shall constitute a Revolver Loan for all purposes, except that payments

thereon shall be made to Agent for its own account until settled with or funded by Lenders hereunder. The obligation of Borrower to repay Swingline Loans shall be evidenced by the records of Agent and need not be evidenced by any promissory note.

(b) Settlement of Loans, including Swingline Loans, among Lenders and Agent shall take place on a date determined from time to time by Agent (but at least weekly, unless the settlement amount is de minimis), on a Pro Rata basis in accordance with the Settlement Report delivered by Agent to Lenders. Each Lender (other than the Swingline Lender, in the case of the Swingline Loans) shall transfer the amount of such Lender's Pro Rata share of the outstanding principal amount of the applicable Loan with respect to which settlement is requested to such account of Agent as Agent may designate, not later than 1:00 p.m. on such settlement date. Between settlement dates, Agent may in its discretion apply payments on Revolver Loans to Swingline Loans, regardless of any designation by Borrowers or anything herein to the contrary. Each Lender hereby purchases, without recourse or warranty, an undivided Pro Rata participation in all Swingline Loans outstanding from time to time until settled. If a Swingline Loan cannot be settled among Lenders, whether due to an Obligor's Insolvency Proceeding or for any other reason, each Lender shall pay the amount of its participation in the Loan to Agent, in immediately available funds, within one Business Day after Agent's request therefor. Lenders' obligations to make settlements and to fund participations are absolute, irrevocable and unconditional, without offset, counterclaim or other defense, and whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in **Section 6** are satisfied.

4.1.4 Notices. The Borrowers may request, convert or continue Loans, select interest rates or transfer funds based on telephonic or electronic instructions to Agent. The Borrowers shall confirm each such request by prompt delivery to Agent of a Notice of Borrowing or Notice of Conversion/Continuation, as applicable. Neither Agent nor any Lender shall have any liability for any loss suffered by a Borrower as a result of Agent acting on its understanding of telephonic or electronic instructions from a ~~person~~ Person believed in good faith to be a ~~person~~ Person authorized to give such instructions on a Borrower's behalf.

4.2 Defaulting Lender. Notwithstanding anything herein to the contrary:

4.2.1 Reallocation of Pro Rata Share; Amendments. For purposes of determining Lenders' obligations or rights to fund, participate in or receive collections with respect to Loans and Letters of Credit (including existing Swingline Loans, Protective Advances and LC Obligations), all or any part of such Defaulting Lender's participation in LC Obligations and Swingline Loans shall be reallocated among the non-Defaulting Lenders in accordance with their respective Pro Rata shares (calculated without regard to such Defaulting Lender's Revolver Commitment) but only to the extent that such reallocation does not cause the aggregate Revolver Exposure of any non-defaulting Lender to exceed such non-defaulting Lender's Revolver Commitment. A Defaulting Lender shall have no right to vote on any amendment, waiver or other modification of a Loan Document, except as specifically provided in **Section 14.1.1(c)**.

4.2.2 Payments; Fees. Any payment of principal, interest, fees or other amounts received by Agent for the account of a Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article XI or otherwise, and including any amounts made available to Agent by that Defaulting Lender pursuant to **Section 9.06**), shall be applied at such time or times as may be determined by Agent as follows:

first, to the payment of any amounts owing by that Defaulting Lender to Agent hereunder;

second, to the payment on a Pro Rata basis of any amounts owing by that Defaulting Lender to any applicable Issuing Banks and Swingline Lenders hereunder;

third, if so reasonably determined by Agent or the Borrower Agent or reasonably requested by the applicable Issuing Bank or Swingline Lender, to be held as Cash Collateral at a rate of 100% of the Fronting Exposure of such Defaulting Lender;

fourth, to the funding of any Revolver Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Agent;

fifth, if so determined by Agent or Borrower, to be held in a deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Revolver Loans under this Agreement and to Cash Collateralize any Issuing Bank's Fronting Exposure with respect to such Defaulting Lender;

sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or any Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement;

seventh, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and

eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction;

provided that if (x) such payment is a payment of the principal amount of any Revolver Loans or LC Obligations in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Revolver Loans or LC Obligations were made at a time when the conditions set forth in **Section 6.2** were satisfied or waived, such payment shall be applied solely to pay the Revolver Loans of, and LC Obligations owed to, all non-Defaulting Lenders on a Pro Rata basis prior to being applied to the payment of any Revolver Loans of, or LC Obligations owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to Cash Collateralize pursuant to this **Section 4.2.2** shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto. A Lender shall not be entitled to receive any fees accruing hereunder during the period in which it is a Defaulting Lender, and the unfunded portion of its Revolver Commitment shall be disregarded for purposes of calculating the Unused Line Fee Percentage under **Section 4.2.2**. To the extent any LC Obligations owing to a Defaulting Lender are reallocated to other Lenders, Letter of Credit fees attributable to such LC Obligations under **Section 3.2.2** shall be paid to such other Lenders. Agent shall be paid all Letter of Credit fees attributable to LC Obligations that are not Cash Collateralized by a Person on behalf of Borrowers or reallocated to such other non-Defaulting Lenders. A Lender shall not be entitled to receive any fees accruing hereunder while it is a Defaulting Lender and its unfunded Revolver Commitment shall be disregarded for purposes of calculating the unused line fee under **Section 3.2.1**. If any LC Obligations owing to a Defaulted Lender are reallocated to other Lenders, fees attributable to such LC Obligations under **Section 3.2.2** shall be paid to such Lenders. Except to the extent the LC Obligations of a Lender are Cash Collateralized by any Person on behalf of Borrowers, Agent shall be paid all fees attributable to LC Obligations that are not reallocated.

4.2.3 **Status; Cure.** The Borrowers, Agent and Issuing Bank may agree in writing that a Lender has ceased to be a Defaulting Lender subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral) Pro Rata shares shall be reallocated without exclusion of the reinstated Lender's Revolver Commitments and Revolver Loans, and the Revolver Usage and other exposures under the Revolver Commitments shall be reallocated among Lenders and settled by Agent (with appropriate payments by the reinstated Lender, including its payment of breakage costs for reallocated LIBOR Revolver Loans) in accordance with the readjusted Pro Rata shares; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of a Borrower while that Lender was a Defaulting Lender. Unless expressly agreed by Borrowers, Agent and Issuing Bank, no reallocation of Revolver Commitments and Loans to non-Defaulting Lenders or reinstatement of a Defaulting Lender shall constitute a waiver or release of claims of any party hereunder against a Defaulting Lender as a result of such Lender having been a Defaulting Lender. The failure of any Lender to fund a Loan, to make a payment in respect of LC Obligations or otherwise to perform obligations hereunder shall not relieve any other Lender of its obligations under any Loan Document. No Lender shall be responsible for default by another Lender.

4.3 Number and Amount of LIBOR Revolver Loans; Determination of Rate. Each Borrowing of LIBOR Revolver Loans when made shall be in a minimum amount of \$5,000,000, or an increment of \$1,000,000 in excess thereof.

No more than 8 Borrowings (or such greater number as is acceptable to Agent) of LIBOR Revolver Loans may be outstanding at any time, and all LIBOR Revolver Loans having the same length and beginning date of their Interest Periods shall be aggregated together and considered one Borrowing for this purpose. Upon determining LIBOR for any Interest Period requested by Borrowers, Agent shall promptly notify Borrowers thereof by telephone or electronically and, if requested by Borrowers, shall confirm any telephonic notice in writing.

4.4 Borrower Agent. Each Borrower hereby designates CAI ("Borrower Agent") as its representative and agent for all purposes under the Loan Documents, including requests for and receipt of Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, delivery of Borrower Materials required to be delivered by Borrowers hereunder, payment of Obligations, requests for waivers, amendments or other modifications, accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Agent, Issuing Bank or any Lender. Borrower Agent hereby accepts such appointment. Agent and Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any notice of borrowing) delivered by Borrower Agent on behalf of any Borrower. Agent and Lenders may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Each of Agent, Issuing Bank and Lenders shall have the right, in its discretion, to deal exclusively with Borrower Agent for any or all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, representation, agreement or undertaking by Borrower Agent shall be binding upon and enforceable against such Borrower.

4.5 One Obligation. The Revolver Loans, LC Obligations and other Obligations constitute one general obligation, on a joint and several basis, of Borrowers and are secured by Agent's Lien on all Collateral; provided, that Agent and each Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

4.6 Effect of Termination. Until Full Payment of all Obligations under the Loan Documents, all undertakings of Borrowers contained in the Loan Documents shall continue, and Agent shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. **Sections 2.3, 3.4, 3.6, 3.7, 3.9, 5.5, 5.9, 5.10, 12, 14.2**, this Section and each indemnity (and related provisions (including the obligation to return any payments to which an indemnitee was not entitled to payment)) or waiver given by an Obligor or Lender in any Loan Document, shall survive Full Payment of the Obligations subject to the limitations set forth in such Sections, if any.

Section 5. PAYMENTS

5.1 General Payment Provisions. All payments or prepayments of Obligations under the Loan Documents shall be made in Dollars, without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any Taxes (except as provided in **Section 5.9**), and in immediately available funds, prior to 2:00 p.m. (or such later time as Agent may agree in its reasonable discretion) on the due date or the date fixed for any prepayment hereunder. Any amounts received after such time may, at the discretion of Agent, be deemed made on the next Business Day for purposes of calculating interest thereon. Except as expressly provided herein, all such payments shall be made to Agent at its offices at 10 South Dearborn Street, Floor L2, Chicago, Illinois 60603. Any payment of a LIBOR Revolver Loan prior to the end of its Interest Period shall be accompanied by all amounts due under **Section 3.9**. Any prepayment of Loans shall be applied first to Base Rate Revolver Loans and then to LIBOR Revolver Loans.

5.2 Repayment of Revolver Loans. Revolver Loans shall be due and payable in full on the Revolver Termination Date, unless payment is sooner required hereunder. Revolver Loans may be prepaid from time to time, without penalty or premium. Subject to **Section 2.1.5**, if an Overadvance exists at any time, Borrowers shall, within three (3) Business Days after any Borrower receives written notice thereof from Agent, repay Revolver Loans in an amount sufficient to reduce Revolver Usage to an amount that does not exceed the Borrowing Base (and thereafter Cash Collateralize such outstanding LC Obligations in an amount equal to such excess).

5.3 Curative Equity. Within 1 Business Day of the date of receipt by any Borrower of the proceeds of any Curative Equity pursuant to **Section 10.4**, such Borrower shall prepay the outstanding principal of the Loans in

accordance with **Section 5.1** in an amount equal to 100% of such proceeds, net of any reasonable out-of-pocket expenses incurred in connection with the issuance of such Curative Equity.

5.4 Reserved.

5.5 Marshaling; Payments Set Aside. None of Agent or Lenders shall be under any obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Agent, Issuing Bank or any Lender, or if Agent, Issuing Bank or any Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other Person in any Insolvency Proceeding, then to the extent of such recovery, the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.6 Application and Allocation of Payments.

5.6.1 Application. Subject to **Section 5.6.2**, Payments made by Borrowers hereunder shall be applied (a) first, to Obligations under the Loan Documents then due and owing, if any; (b) second, to other Obligations specified by Borrowers; and (c) third, as determined by Agent in its discretion.

5.6.2 Post-Default Allocation. Notwithstanding anything in any Loan Document to the contrary, during the existence of an Event of Default under **Section 11.1(j)**, or during any other Event of Default at the discretion of Agent or Required Lenders, monies to be applied to the Obligations, whether arising from payments by Obligors, realization on Collateral, setoff or otherwise, shall be allocated as follows:

first, to all fees, indemnification, costs and expenses, including Extraordinary Expenses, owing to Agent;

second, to all other amounts owing to Agent, including Swingline Loans, Protective Advances, and Revolver Loans and participations that a Defaulting Lender has failed to settle or fund;

third, to all amounts owing to Issuing Bank (other than Cash Collateralization of undrawn Letters of Credit);

fourth, to all Obligations (other than Secured Bank Product Obligations) constituting fees, indemnification, costs or expenses owing to Lenders;

fifth, to all Obligations (other than Secured Bank Product Obligations) constituting interest;

sixth, to Cash Collateralize all LC Obligations;

seventh, to all Revolver Loans, and to Secured Bank Product Obligations arising under Hedging Agreements (including Cash Collateralization thereof) up to the amount of Reserves existing with respect to such Hedging Agreements;

eighth, to all other Secured Bank Product Obligations;

ninth, to all remaining Obligations; and

LAST, to Borrowers.

Amounts shall be applied to payment of each category of Obligations only after Full Payment of amounts payable from time to time under all preceding categories. If amounts are insufficient to satisfy a category, they shall be paid ratably among outstanding Obligations in the category. Monies and proceeds obtained from an Obligor shall not be applied to its Excluded Swap Obligations, but appropriate adjustments shall be made with respect to amounts obtained from other Obligors to preserve the allocations in each category. Agent shall have no obligation to calculate the amount

of any Secured Bank Product Obligation and may request a reasonably detailed calculation thereof from a Secured Bank Product Provider. If the provider fails to deliver the calculation within five days following request, Agent may assume the amount is zero. The allocations in this Section are solely to determine the priorities among Secured Parties and may be changed by agreement of affected Secured Parties without the consent of any Obligor. No Obligor has any right to direct the application of payments or Collateral proceeds subject to this **Section 5.6.2**.

5.6.3 **Erroneous Application.** Agent shall not be liable for any application of amounts made by it in good faith and, if any such application is subsequently determined to have been made in error, the sole recourse of any Lender or other Person to which such amount should have been paid shall be to recover the amount from the Person that actually received it (and, if such amount was received by a Secured Party, the Secured Party agrees to return it).

5.7 **Dominion Account.** The ledger balance in the main Dominion Account as of the end of a Business Day shall be applied to the Obligations at the beginning of the next Business Day, during any Dominion Trigger Period. Any resulting credit balance shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Event of Default exists.

5.8 **Account Stated.** Agent shall maintain, in accordance with its customary practices, loan account(s) evidencing the Debt of Borrowers hereunder, and each Borrower confirms that such arrangement shall have no effect on the joint and several character of its liability for the Obligations. Any failure of Agent to record anything in a loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in a loan account shall constitute presumptive evidence of the information contained therein. If any information contained in a loan account is provided to any Person for verification (or inspected in the case of any Person other than Borrowers), the information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Agent in writing within 30 days after receipt (or inspection, as applicable) that specific information is subject to dispute; provided that payment by Borrowers to Agent of any amounts owed hereunder which are under dispute by Borrowers shall not be deemed a waiver of Borrowers' right to continue such dispute.

5.9 **Taxes.**

5.9.1 **Payments Free of Taxes; Obligation to Withhold; Tax Payment.**

(a) All payments of Obligations by Obligors shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If Applicable Law (as determined by Agent in its discretion) requires the deduction or withholding of any Tax from any such payment by Agent or an Obligor, then Agent or such Obligor shall be entitled to make such deduction or withholding based on information and documentation provided pursuant to **Section 5.10**.

(b) If Agent or any Obligor is required by the Code to withhold or deduct Taxes, including backup withholding and withholding taxes, from any payment, then (i) Agent shall pay the full amount that it determines is to be withheld or deducted to the relevant Governmental Authority pursuant to the Code, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(c) If Agent or any Obligor is required by any Applicable Law other than the Code to withhold or deduct Taxes from any payment, then (i) Agent or such Obligor, to the extent required by Applicable Law, shall timely pay the full amount to be withheld or deducted to the relevant Governmental Authority, and (ii) to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

5.9.2 Payment of Other Taxes. Without limiting the foregoing, Borrowers shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at Agent's option, timely reimburse Agent for payment of, any Other Taxes.

5.9.3 Tax Indemnification.

(a) Each Borrower shall indemnify and hold harmless, on a joint and several basis, each Recipient against any Indemnified Taxes (including those imposed or asserted on or attributable to amounts payable under this Section) payable or paid by a Recipient or required to be withheld or deducted from a payment to a Recipient, and any penalties, interest and reasonable out-of-pocket 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. Each Borrower shall indemnify and hold harmless Agent against any amount that a Lender or Issuing Bank fails for any reason to pay indefeasibly to Agent as required pursuant to this Section. Each Borrower shall make payment within 30 days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to Borrowers by a Lender or Issuing Bank (with a copy to Agent), or by Agent on its own behalf or on behalf of any Recipient, shall be conclusive absent manifest error.

(b) Each Lender and Issuing Bank shall indemnify and hold harmless, on a several basis, (i) Agent against any Indemnified Taxes attributable to such Lender or Issuing Bank (but only to the extent Borrowers have not already paid or reimbursed Agent therefor and without limiting Borrowers' obligation to do so), (ii) Agent and Obligors, as applicable, against any Taxes attributable to such Lender's failure to maintain a Participant register as required hereunder, and (iii) Agent and Obligors, as applicable, against any Excluded Taxes attributable to such Lender or Issuing Bank, in each case, that are payable or paid by Agent or an Obligor in connection with any Obligations, 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. Each Lender and Issuing Bank shall make payment within 10 days after demand for any amount or liability payable under this Section. A certificate as to the amount of such payment or liability delivered to any Lender or Issuing Bank by Agent shall be conclusive absent manifest error.

5.9.4 Evidence of Payments. If Agent or an Obligor pays any Taxes pursuant to this Section, then upon request and as soon as practicable after payment, Agent shall deliver to Borrower Agent or Borrower Agent shall deliver to Agent, respectively, a copy of a receipt issued by the appropriate Governmental Authority evidencing the payment, a copy of any return required by Applicable Law to report the payment or other evidence of payment reasonably satisfactory to Agent or Borrower Agent, as applicable.

5.9.5 Treatment of Certain Refunds. Unless required by Applicable Law, at no time shall Agent have any obligation to file for or otherwise pursue on behalf of a Lender or Issuing Bank, nor have any obligation to pay to any Lender or Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of a Lender or Issuing Bank. If a Recipient determines in its discretion that it has received a refund of any Taxes as to which it has been indemnified by Borrowers or with respect to which a Borrower has paid additional amounts pursuant to this Section, it shall pay Borrowers an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that Borrowers agree, upon request by the Recipient, to repay the amount paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient if the Recipient is required to repay such refund to the Governmental Authority. Notwithstanding anything herein to the contrary, no Recipient shall be required to pay any amount to Borrowers if such payment would place the Recipient in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. In no event shall Agent or any Recipient be required to make its tax returns (or any other information relating to its taxes that it deems confidential) available to any Obligor or other Person.

5.9.6 Survival. Each party's obligations under **Sections 5.9** and **5.10** shall survive the resignation or replacement of Agent or any assignment of rights by or replacement of a Lender or Issuing Bank, the termination of the Revolver Commitments, and the repayment, satisfaction, discharge or Full Payment of any Obligations under the Loan Documents.

5.10 Lender Tax Information.

5.10.1 Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments of Obligations shall deliver to Borrowers and Agent properly completed and executed documentation reasonably requested by Borrowers or Agent as will permit such payments to be made without or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrowers or Agent to enable them to determine whether such Lender is subject to backup withholding or information reporting requirements. Notwithstanding the foregoing, such documentation (other than documentation described in **Sections 5.10.2(a), (b)** and **(d)**) shall not be required if a Lender reasonably believes delivery of the documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

5.10.2 Documentation. Without limiting the foregoing, if any Borrower is a U.S. Person,

(a) Any Lender that is a U.S. Person shall deliver to Borrowers and Agent on or prior to the date on which such Lender becomes a Lender hereunder (and from time to time thereafter upon reasonable request of Borrowers or Agent), executed originals of IRS Form W 9, certifying that such Lender is exempt from U.S. federal backup withholding Tax;

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

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, (x) with respect to payments of interest under any Loan Document, executed originals of 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 (y) with respect to other payments under the Loan Documents, 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;

(ii) executed originals of IRS Form W 8ECI;

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

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECL, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate in form satisfactory to Agent, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided, however, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct or indirect partner;

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

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

5.10.3 Redelivery of Documentation. If any form or certification previously delivered by a Lender pursuant to this Section expires or becomes obsolete or inaccurate in any respect, such Lender shall promptly update the form or certification or notify Borrowers and Agent in writing of its inability to do so.

5.11 Nature and Extent of Each Borrower's Liability.

5.11.1 Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Agent and Lenders the prompt payment and performance of, all Obligations, except its Excluded Swap Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations under the Loan Documents, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Agent or any Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Agent or any Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Agent or any Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Agent or any Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations under the Loan Documents.

5.11.2 Waivers.

(a) Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Agent or Lenders to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of Obligations under the Loan Documents and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower, Agent and Lenders that the provisions of this **Section 5.11** are of the essence of the

transaction contemplated by the Loan Documents and that, but for such provisions, Agent and Lenders would decline to make Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(b) During the continuance of an Event of Default, Agent and Lenders may, in their discretion, pursue such rights and remedies as they deem appropriate, including realization upon Collateral by judicial foreclosure or nonjudicial sale or enforcement, without affecting any rights and remedies under this **Section 5.11**. If, in taking any action in connection with the exercise of any rights or remedies, Agent or any Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to “election of remedies” or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Agent or any Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower’s obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower’s rights of subrogation against any other Person. Agent may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Agent but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Agent or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.11**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Agent or any Lender might otherwise be entitled but for such bidding at any such sale.

5.11.3 Extent of Liability; Contribution.

(a) Notwithstanding anything herein to the contrary, each Borrower’s liability under this **Section 5.11** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower’s Allocable Amount.

(b) If any Borrower makes a payment under this **Section 5.11** of any Obligations (other than amounts for which such Borrower is primarily liable) (a “Guarantor Payment”) that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower’s Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The “Allocable Amount” for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.11** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

(c) This **Section 5.11.3** shall not limit the liability of any Borrower to pay or guarantee Loans made directly or indirectly to it (including Loans advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), LC Obligations relating to Letters of Credit issued to support its business, Secured Bank Product Obligations incurred to support its business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Agent and Lenders shall have the right, at any time in their discretion, to condition Loans and Letters of Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of Loans and Letters of Credit to such Borrower based on that calculation.

(d) Each Obligor that is a Qualified ECP when its guaranty of or grant of Lien as security for a Swap Obligation becomes effective hereby jointly and severally, absolutely, unconditionally and irrevocably

undertakes to provide funds or other support to each Specified Obligor with respect to such Swap Obligation as may be needed by such Specified Obligor from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP's obligations and undertakings under this **Section 5.11** voidable under any applicable fraudulent transfer or conveyance act). The obligations and undertakings of each Qualified ECP under this Section shall remain in full force and effect until Full Payment of all Obligations under the Loan Documents. Each Obligor intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support or other agreement" for the benefit of, each Obligor for all purposes of the Commodity Exchange Act.

5.11.4 **Joint Enterprise.** Each Borrower has requested that Agent and Lenders make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. The Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. The Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. The Borrowers acknowledge that Agent's and Lenders' willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.11.5 **Subordination.** Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the Full Payment of all Obligations under the Loan Documents.

Section 6. CONDITIONS PRECEDENT/SUBSEQUENT

6.1 Conditions Precedent to Initial Revolver Loans. In addition to the conditions set forth in **Section 6.2**, Lenders shall not be required to fund any requested Revolver Loan, issue any Letter of Credit, or otherwise extend credit to Borrowers hereunder, until the date ("**Closing Date**") that each of the following conditions has been satisfied:

(a) Revolver Notes shall have been executed by Borrowers and delivered to each Lender that requests issuance of a Revolver Note. This Agreement, the Guaranty, the Security Agreement, the Equity Interest Pledge Agreement and the Fee letter (or reaffirmations thereof) requested by Agent shall have been duly executed and delivered to Agent by each of the signatories thereto, and each Obligor (to the extent a party thereto) shall be in compliance with all terms thereof.

(b) Agent shall have received acknowledgments of all filings or recordings necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence reasonably satisfactory to Agent that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(c) Agent shall have received certificates from a Senior Officer of Parent and each Borrower certifying that, after giving effect to the initial Revolver Loans and transactions hereunder, (i) it is Solvent; (ii) no Default or Event of Default exists; and (iii) the representations and warranties set forth in **Section 9** are true and correct.

(d) Agent shall have received a certificate of a duly authorized officer of each Obligor, certifying (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan Documents. Agent may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

(e) Agent shall have received a written opinion of Sidley Austin LLP with respect to each Obligor.

(f) Agent shall have received copies of the charter documents of each Obligor, certified by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Agent shall have received good standing certificates for each Obligor, issued by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization.

(g) No material adverse change in the financial condition of any Obligor or in the quality, quantity or value of any Collateral shall have occurred since January 31, 2018.

(h) The Borrowers shall have paid all fees and expenses due and payable to Agent and Lenders on the Closing Date.

(i) Agent shall have received a copy of the current Credit and Collection Guidelines in effect on the Closing Date (which may, in the case of Confidential Information, be redacted).

(j) Agent shall have received an updated Borrowing Base Report prepared as of April 30, 2018.

6.2 **Conditions Precedent to All Credit Extensions.** Agent, Issuing Bank and Lenders shall in no event be required to make any credit extension hereunder (including funding any Loan, arranging any Letter of Credit, or granting any other accommodation to or for the benefit of any Borrower), if the following conditions are not satisfied on such date and upon giving effect thereto:

(a) No Default or Event of Default exists;

(b) The representations and warranties of each Obligor in the Loan Documents are true and correct in all material respects (and in all respects with respect to any representations and warranties which are expressly qualified with materiality) on the date of, and upon giving effect to, such credit extension (except for representations and warranties that relate solely to an earlier date); and

(c) With respect to a Letter of Credit issuance, all LC Conditions are satisfied.

Each request (or deemed request) by a Borrower for any credit extension shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of the credit extension.

Section 7. COLLATERAL

7.1 **Grant of Security Interest.** To secure the prompt payment and performance of all Obligations, each Borrower hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all of the following Property of such Borrower (other than Excluded Collateral), whether now owned or hereafter acquired, and wherever located:

(a) all [Contracts and all Third Party](#) Contracts;

(b) all Accounts including Credit Card Accounts;

(c) all Chattel Paper, including electronic chattel paper;

(d) all Commercial Tort Claims, including those shown, as of the Closing Date, on **Schedule 9.1.16**;

(e) all Deposit Accounts;

- (f) all Documents;
- (g) all General Intangibles, including Intellectual Property;
- (h) all Goods, including Inventory, Equipment and fixtures;
- (i) all Instruments;
- (j) all Investment Property, including the Equity Interests of each Borrower in its Subsidiaries set forth on **Schedule 7.1(j)**;
- (k) all Letter-of-Credit Rights;
- (l) all Supporting Obligations;
- (m) all monies, whether or not in the possession or under the control of Agent, a Lender, or a bailee or Affiliate of Agent or a Lender, including any Cash Collateral;
- (n) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
- (o) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

Each Contract and its related assets shall be released from Agent's security interest automatically upon becoming a Securitized Contract without further action by Agent or any other Person. Each Third Party Contract and its related assets shall be released from Agent's security interest automatically upon being sold to a third party without further action by Agent or any other Person. Notwithstanding the preceding ~~sentence~~two sentences, Agent shall execute a release releasing such Contract, Third Party Contract and ~~its~~their respective related assets from Agent's security interest upon any Borrower's request; provided that Borrowers may not file any UCC-3 financing statements without Agent's prior review and approval. If a Securitized Contract is transferred from a Securitization Subsidiary back to a Borrower, it shall cease being a Securitized Contract upon such transfer back and, together with its related security shall again constitute Collateral hereunder.

7.2 Lien on Deposit Accounts; Cash Collateral.

7.2.1 Deposit Accounts. To further secure the prompt payment and performance of all Obligations, each Borrower hereby grants to Agent, for the benefit of Secured Parties, a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Borrower (other than Excluded Accounts), including any sums in any blocked or lockbox accounts (if any) or in any accounts into which such sums are swept. Each Borrower authorizes and directs each bank or other depository to deliver to Agent all balances in each such Deposit Account maintained by such Borrower with such depository for application to the Obligations then outstanding promptly following the receipt by such bank or other depository institution of a notice of such Dominion Trigger Period. Each Borrower irrevocably appoints Agent as such Borrower's attorney-in-fact to collect such balances to the extent any such delivery is not so made.

7.2.2 Cash Collateral. At the request of Borrower Agent, any Cash Collateral may be invested in Cash Equivalents (so long as no Event of Default exists). Cash Collateral may be invested, at Agent's discretion, but Agent shall have no responsibility for any investment or loss. As security for its Obligations, each Borrower hereby grants to Agent a security interest in and Lien upon all Cash Collateral delivered hereunder from time to time, whether held in a segregated cash collateral account or otherwise. All Cash Collateral and related deposit accounts shall be

under the sole dominion and control of Agent and, subject to **Section 12.2**, no Borrower shall have any right to any Cash Collateral until the earlier of (a) the date on which the circumstances giving rise to the need for such Cash Collateralization no longer exist, (b) Full Payment of all Obligations in respect of which such Cash Collateral was posted and (c) a determination is made by the party for whose benefit such Cash Collateral was posted that it no longer requires the Cash Collateral.

7.3 Real Estate Collateral.

7.3.1 Lien on Real Estate. The Obligations shall also be secured by Mortgages upon the fee owned Real Estate listed on **Schedule 7.3**. The Mortgages shall be duly recorded, at Borrowers' expense, in each office where such recording is required to constitute a valid and secured first priority Lien (subject to Permitted Liens) on Real Estate covered thereby. If any Borrower acquires any fee owned Real Estate after the Closing Date with a fair market value (as reasonably estimated by Borrower Agent) in excess of \$25,000,000, Borrowers shall promptly notify Agent and, within 90 days (or such later date as Agent may reasonably agree in its sole discretion), after written request by Agent, execute, deliver and record a first priority Mortgage (subject to Permitted Liens), sufficient to create a valid, secured Lien in favor of Agent on such Real Estate, together with all Related Real Estate Documents.

7.3.2 Reserved.

7.3.3 Real Estate Collateral. With respect to any lease for a store location or distribution center a Borrower that restricts the lessee from granting a Leasehold Mortgage to Agent (a "Restricted Lease"), Borrowers shall use commercially reasonable efforts to deliver to Agent consents executed by the landlord under such lease to the execution of a Leasehold Mortgage by Borrower in favor of Agent for the benefit of the Secured Parties. Upon request by Agent, Borrower shall execute and deliver to Agent Leasehold Mortgages with respect to any of its leasehold interests in Real Estate for such store location or distribution center; provided that Borrower shall not be required to deliver Leasehold Mortgages with respect to any Restricted Leases to the extent consent thereto has not been provided by the applicable landlords pursuant to the prior sentence. Agent shall hold the Leasehold Mortgages, and Agent and each Borrower agree that no Leasehold Mortgage will create a valid Lien in favor of Agent until such Leasehold Mortgage is recorded as set forth below. At any time (a) Availability is less than \$25,000,000, or (b) an Event of Default exists, at the option of Agent the Leasehold Mortgages shall be duly recorded, at Borrowers' expense, in each office where such recording is required to provide notice to third party's of Agent's Lien on the Real Estate covered thereby.

7.4 Reserved.

7.5 Other Collateral.

7.5.1 Commercial Tort Claims. Borrowers shall promptly notify Agent in writing if any Borrower has a Commercial Tort Claim (other than, as long as no Event of Default exists, a Commercial Tort Claim for less than \$5,000,000), and shall take such actions as Agent deems appropriate to subject such claim to a duly perfected, first priority Lien in favor of Agent for the benefit of the Secured Parties.

7.5.2 Certain After-Acquired Collateral. The Borrowers (i) shall promptly notify Agent if a Borrower obtains an interest in any Deposit Account (other than an Excluded Account) and (ii) shall notify Agent concurrently with the delivery of any Compliance Certificate delivered pursuant to **Section 10.1.1(d)(i)**, if, during the most recently ended Fiscal Quarter to which such Compliance Certificate relates, any Borrower obtains any interest in Collateral (other than Contracts and related assets) consisting of Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights and, in each case, upon Agent's request, shall promptly take such actions as Agent deems appropriate to effect Agent's duly perfected, first priority Lien (subject to Permitted Liens) on such Collateral, included obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral included in the Borrowing Base is in the possession of a third party, at Agent's reasonable request, Borrowers shall obtain an acknowledgment that such third party holds the Collateral for the benefit of Agent.

7.5.3 **Limitations.** The Lien on Collateral granted hereunder is given as security only and shall not subject Agent or any Lender to, or in any way modify, any obligation or liability of Borrowers relating to any Collateral. In no event shall the grant of any Lien under any Loan Document secure an Excluded Swap Obligation of the granting Obligor.

7.5.4 **Further Assurances.** All Liens granted to Agent for the benefit of the Secured Parties under the Loan Documents are for the benefit of Secured Parties. Promptly upon request, Borrowers shall deliver such instruments and agreements, and shall take such actions, as Agent deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Borrower authorizes Agent to file any financing statement that describes the Collateral as “all assets” or “all personal property” of such Borrower, or words to similar effect, and ratifies any action taken by Agent before the Closing Date to effect or perfect its Lien on any Collateral.

7.6 **Contract Legend.** If such Contract is tangible chattel paper and has not become a Securitized Contract, Borrowers shall promptly following the execution or receipt of a Contract stamp or type in on the Contract the following:
This instrument or agreement is assigned as collateral to JPMorgan Chase Bank, N.A.

Section 8. COLLATERAL ADMINISTRATION

8.1 **Collateral Reports.** By the 20th day of each month, Borrowers shall deliver to Agent (and Agent shall promptly deliver same to Lenders) (a) a Borrowing Base Report prepared as of the close of business of the previous month; provided that the NOLV Percentage to be applied to the Value of Eligible Inventory shall be the NOLV Percentage set forth in the most recent appraisal of Inventory satisfactory to Agent, a copy of which has been delivered to the Borrowers (provided, that Borrowing Base Reports shall be delivered weekly by the third Business Day of each week (x) during an Increased Reporting Period; it being understood that Eligible Contracts, Eligible Inventory, the CAI Availability Reserve and the CCI Availability Reserve shall be provided by Borrower on a monthly basis at all times and (y) during a Covenant Relief Period in the form attached as Exhibit B to the Third Amendment), (b) an aggregate list of Borrowers' Contracts, aged in 30 days contractual delinquency intervals and separately identifying the revolving Contracts; (c) a calculation of the Past Due Percent, the Cash Recovery Percent, Collateral Adjustment Percentage, the Net Charge-Off Percent; (d) an Inventory turn report of Borrowers' Inventory; (e) a listing of each Borrower's Inventory by location, specifying the amount of Inventory at each location; (f) the summary balances of Borrowers' Owned Contract Portfolio and ABS Contract Portfolio and delinquent balances of such portfolios; and (g) a certificate of an officer of Borrower Agent certifying as to the accuracy and completeness in all material respects of the foregoing. All calculations of Availability in any Borrowing Base Report shall originally be made by Borrowers and certified by a Senior Officer; provided, that Agent may from time to time review and adjust any such calculation, in its Permitted Discretion, to the extent the calculation is not made in accordance with this Agreement or does not accurately reflect the CAI Availability Reserve or CCI Availability Reserve.

8.2 Administration of Contracts.

8.2.1 Contracts.

(a) The Borrowers hereby represent and warrant to Agent and Lenders with respect to the Contracts included in the Borrowing Base, that: (i) each such Contract represents a bona fide obligation of the Contract Debtor, enforceable in accordance with its terms (except to the extent enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability); (ii) each existing Contract is for a liquidated amount payable by the Contract Debtor thereon on the terms set forth in the Contract therefor or in the schedule thereof delivered to Agent, without any offset, deduction, defense (including the defense of usury), or counterclaim (other than to the extent taken into account in the definition of Eligible Contracts); (iii) to the extent any Contract is in tangible form, there is only one original “Corporate Copy” counterpart and one original “Store Copy” counterpart of such Contract executed by the Contract Debtor and any copies of such original are clearly marked as copies; (iv) the signatures of all Contract Debtors are genuine and, to the knowledge of Borrowers, each Contract Debtor had the legal capacity to enter into and execute such documents on the date thereof; (v) each Borrower maintains policies and procedures

designed to achieve compliance with Consumer Finance Laws; and (vi) Borrowers have complied, in all material respects, with all requirements of Applicable Law with respect to all such Contracts and related transactions; and have originated, ~~or~~ acquired, serviced, collected and otherwise administered all Contracts and conducted Borrowers' business, in each case in accordance with the Credit and Collection Guidelines and, in all material respects, all applicable Consumer Finance Laws. Notwithstanding anything else to the contrary, the failure of Borrowers to satisfy any of the representations and warranties of this **Section 8.2.1(a)(i)** through **(iv)** with respect to Contracts resulting in an adjustment to the Borrowing Base of \$5,000,000 or less shall not constitute a breach or Event of Default under this Agreement or any Loan Document but shall instead result in such materially affected Contracts being excluded from the determination of, or other appropriate adjustments to, the Borrowing Base.

(b) The Borrowers shall not grant any discount, credit or allowance to any such Contract Debtor without Agent's prior written consent, except for discounts, credits and allowances made or given in the Ordinary Course of Business or in compliance with the Credit and Collection Guidelines.

(c) Except as provided in Borrowers' Credit and Collection Guidelines and with respect to their "direct loan program", Borrowers shall not accept any note or other instrument (except a check or other instrument for the immediate payment of money) with respect to any Contract without Agent's written consent (such consent not to be unreasonably conditioned, withheld, delayed or denied). If Agent consents to the acceptance of any such instrument (which consent shall not be required in the case of the Borrowers' "direct loan program"), it shall be considered as evidence of the Contract and not payment thereof and Borrowers will promptly deliver such instrument to Agent (other than notes in connection with the "direct loan program"), endorsed by the applicable Borrower to Agent in a manner reasonably satisfactory in form and substance to Agent. Regardless of the form of presentation, demand, notice of protest with respect thereto, the Contract Debtor shall remain liable thereon until such Instrument is paid in full.

(d) Agent may rely, in determining which Contracts are Eligible Contracts, on all statements and representations made by Borrowers with respect thereto.

(e) ~~[Reserved.]~~ The Borrowers hereby represent and warrant to Agent and Lenders with respect to the Third Party Contracts (i) each Borrower maintains policies and procedures designed to achieve compliance with Consumer Finance Laws; and (ii) Borrowers have complied, in all material respects, with all requirements of Applicable Law with respect to all such Third Party Contracts originated by it and, at the time this representation and warranty is made, then serviced, collected or otherwise administered by it and related transactions and have originated, serviced, collected and otherwise administered all Third Party Contracts, in each case in accordance with all applicable Consumer Finance Laws in all material respects.

(f) [Reserved.]

(g) If the Contract is in electronic format, (i) none of the Borrowers or a custodian or vaulting agent thereof has communicated an "authoritative copy" (as such term is used in Section 9-105 of the UCC) to any Person other than a Borrower or an Affiliate of a Borrower (which, in the case of an Affiliate of a Borrower, is a Person to whom such Borrower has delegated its duties or has entered into a subservicing arrangement and, in any case, is a Person who has agreed to hold such "authoritative copy" in trust for such Borrower (or its assigns)) and (ii) that is maintained by a custodian or vaulting agent, Borrower shall, upon request by Agent, use commercially reasonable efforts to cause such custodian or vaulting agent to enter into a control agreement with Agent, which shall be in form and substance satisfactory to Agent. If the Contract is in print format, Borrowers shall keep such Contract at the chief executive office or other safe and secure location as designated by Borrower Agent to Agent from time to time.

8.2.2 Taxes. If any collections received from payments made by Contract Debtors includes charges for any Taxes, Agent is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of such Borrower and to charge Borrowers therefor; provided, that neither Agent nor Lenders shall be liable for any Taxes that may be due from Borrowers or with respect to any Collateral.

8.2.3 Contract Verification. In connection with the conduct of any field examination, Agent shall have the right, in the name of Agent, any designee of Agent or any Borrower, to verify the validity, amount or any other matter relating to any Contracts by mail, telephone or otherwise. Borrowers shall cooperate fully with Agent in an effort to facilitate and promptly conclude any such verification process.

8.2.4 Maintenance of Dominion Account. The Borrowers shall maintain Dominion Accounts pursuant to lockbox or other arrangements reasonably acceptable to Agent. The Borrowers shall obtain an agreement (in form and substance reasonably satisfactory to Agent) from each lockbox servicer (if any) and Dominion Account bank, establishing Agent's control over and Lien in the lockbox (if any) or Dominion Account, which may be exercised by Agent during any Dominion Trigger Period, requiring prompt deposit of all remittances received in the lockbox (if any) to a Dominion Account. If a Dominion Account is not maintained with JPM, Agent may, during any Dominion Trigger Period, require prompt transfer of all funds in such account to a Dominion Account maintained with JPM promptly following the receipt of a notice of such Dominion Trigger Period by the applicable bank or depository institution where such account is maintained. Agent and Lenders assume no responsibility to Borrowers for any lockbox arrangement (if any) or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank.

8.2.5 Proceeds of Collateral. The Borrowers shall request in writing that all payments on Contracts or otherwise relating to Collateral included in the Borrowing Base are made directly to a Dominion Account (or a lockbox relating to a Dominion Account, if any). If any Borrower or its Subsidiary receives cash or Payment Items with respect to any such Collateral, it shall hold same in trust for Agent and promptly deposit same into a Dominion Account; provided, that payments on Securitized Contracts may be remitted to and held by the Securitization Subsidiary, its agents or the related Permitted ABS Agent and payments on any Third Party Contract may be remitted to and held by the purchaser of such Third Party Contract or its trustee, agent or other representatives and, in each case, shall not be subject to the requirements set forth above.

8.3 Administration of Inventory.

8.3.1 Records and Reports of Inventory. Each Borrower shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions, and shall submit to Agent inventory and reconciliation reports in form reasonably satisfactory to Agent, on such periodic basis as Agent may request. Each Borrower shall conduct a physical inventory at each of its locations at least once per calendar year.

8.3.2 Returns of Inventory. No Borrower shall return any Inventory to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the Ordinary Course of Business; (b) no Default, Event of Default or Overadvance exists or would result therefrom; and (c) Agent is promptly notified if the aggregate Value of all Inventory returned in any month exceeds \$7,500,000; and (d) any payment received by a Borrower in excess of the aggregate amount of \$7,500,000 in any month for a return is promptly remitted to Agent for application to the Obligations.

8.3.3 Acquisition and Sale. To Borrowers' knowledge, each Borrower's Inventory included in the Borrowing Base is produced, in all material respects, in accordance with the FLSA.

8.4 Administration of Equipment

8.4.1 Reserved.

8.4.2 Reserved.

8.4.3 Condition of Equipment. The Equipment is in good operating condition and repair, and all necessary replacements and repairs have been made so that its value and operating efficiency are preserved at all times, reasonable wear and tear and casualty and condemnation excepted.

8.5 Administration of Deposit Accounts. Schedule 8.5 lists, as of the Closing Date, all Deposit Accounts maintained by Borrowers, including Dominion Accounts. Each Borrower shall take all actions necessary to establish Agent's first priority Lien (subject to Permitted Liens set forth in **Section 10.2.2(i)**) on each Deposit Account (other than an Excluded Account). A Borrower shall be the sole account holder of each such Deposit Account and shall not allow any Person (other than Agent and the depository bank) to have control over such Deposit Accounts or any Property deposited therein. The Borrowers shall promptly notify Agent of any opening or closing of a Deposit Account (other than an Excluded Account).

8.6 Administration of Credit Card Accounts.

8.6.1 Credit Card Agreements. Schedule 8.6.1 is a list of all Credit Card Agreements as of the Closing Date.

8.6.2 Credit Card Processor Notifications. Each Borrower shall deliver to Agent copies of Credit Card Processor Notifications which have been executed on behalf of such Borrower and delivered to such Borrower's Credit Card Issuers and Credit Card Processors.

8.7 General Provisions.

8.7.1 Location of Collateral. All tangible items of Collateral, other than Inventory in transit ~~and~~, Collateral out for repair and Collateral such as laptops, phones, mobile hotspots and similar devices utilized by directors, officers, employees and consultants, shall at all times be kept by Borrowers at the business locations set forth in **Schedule 8.7.1** (as such Schedule may be updated by Borrowers from time to time at the time of the delivery of a quarterly Compliance Certificate (it being understood that no violation of this provision shall be deemed to occur as a result of any Collateral being maintained at a new business location not previously set forth in **Schedule 8.7.1**, so long as such Schedule is updated to include such new business location in connection with the next succeeding delivery of a quarterly Compliance Certificate)), except that Borrowers may (a) make sales or other dispositions of Collateral in accordance with **Section 10.2.6**; and (b) move Collateral to another location not listed on **Schedule 8.7.1** upon 10 Business Days prior written notice to Agent (or upon such shorter period as Agent may agree in its sole discretion).

8.7.2 Insurance of Collateral; Condemnation Proceeds.

(a) Each Borrower shall maintain insurance with respect to the Collateral, in such amounts, with insurers and against such risks as are customarily maintained by similarly situated businesses operating in the same or similar locations. All proceeds under each policy (other than insurance with respect to business interruption, workers' compensation and similar insurance and directors and officers liability policies) shall name Agent as an additional insured or loss payee, as applicable. Unless Agent shall agree otherwise, each such policy shall include satisfactory endorsements to the extent available (i) showing Agent as loss payee; (ii) requiring 30 days prior written notice to Agent in the event of cancellation of the policy for any reason what so ever except 10 days notice shall be given for cancellation due to non-payment of premium; and (iii) specifying that the interest of Agent shall not be impaired or invalidated by any act or neglect of any Borrower or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. From time to time upon Agent's reasonable request, Borrowers shall deliver to Agent the certified copies of its insurance policies and updated flood plain searches. If any Borrower fails to provide and pay for any insurance, Agent may, at its option, but shall not be required to, procure the insurance and charge Borrowers therefor. Each Borrower agrees to deliver to Agent, promptly as rendered, copies of all claims reports made to insurance companies with respect to Collateral included in the Borrowing Base, in each case in excess of \$10,000,000. While no Event of Default exists, Borrowers may settle, adjust or compromise any insurance claim, as long as the proceeds of any insurance with respect to Collateral included in the Borrowing Base are delivered to Agent. If an Event of Default exists, only Agent shall be authorized to settle, adjust and compromise such claims.

(b) Any proceeds of insurance (other than proceeds from business interruption, workers' compensation and similar insurance and directors and officers insurance) and any awards arising from condemnation of any Collateral shall be paid to Agent and shall be deposited in the Dominion Account.

(c) After Agent's receipt of any insurance proceeds or condemnation awards relating to any loss or destruction of Equipment or Real Estate, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate as long as (i) no Event of Default exists and is continuing; (ii) such repair or replacement is promptly undertaken and concluded; (iii) the repaired or replaced Property is free of Liens, other than Permitted Liens; and (iv) to the extent such award relates to Real Estate subject to a Mortgage or Leasehold Mortgage, the aggregate amount of such proceeds or awards from any single casualty or condemnation does not exceed \$10,000,000.

8.7.3 Protection of Collateral. All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Agent to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Agent shall not be liable or responsible in any way for the safekeeping of any Collateral, for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Agent's actual possession), for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Borrowers' sole risk.

8.7.4 Defense of Title to Collateral. Each Borrower shall at all times defend its title to Collateral and Agent's Liens therein against all Persons, claims and demands whatsoever, except Permitted Liens.

8.8 Power of Attorney. Each Borrower hereby irrevocably constitutes and appoints Agent (and all Persons designated by Agent) as such Borrower's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Agent, or Agent's designee, may (but shall have no obligation to), without notice and in either its or a Borrower's name, but at the cost and expense of Borrowers:

(a) Endorse a Borrower's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Agent's possession or control for deposit in a Dominion Account; and

(b) During the continuance of an Event of Default, with respect to any Collateral (i) send notices to Contract Debtors of the assignment of their Contracts, demand and enforce payments on Contracts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Contract; (ii) settle, adjust, modify, compromise, discharge or release any claims with respect to amounts due on Contracts or other Collateral, or any legal proceedings brought to collect on Contracts or other Collateral, (iii) collect, liquidate, and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (iv) prepare, file and sign a Borrower's name to a proof of claim or other document in a bankruptcy of a Contract Debtor, or to any notice, assignment or satisfaction of Lien or similar documents; (v) receive, open and dispose of mail addressed to a Borrower, and notify postal authorities to deliver any such mail to an address designated by Agent; (vi) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Contract, Inventory or other Collateral; (vii) use a Borrower's stationery and sign its name to verifications of Contract and notices to Contract Debtors; (viii) use information contained in any data processing, electronic, or other information systems relating to Collateral; (ix) make and adjust claims under insurance policies; (x) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which a Borrower is a beneficiary; (xi) following three (3) Business Days' written notice to Borrower Agent, exercise any voting or other rights under or with respect to any Investment Property; and (xii) take all other lawful actions as Agent deems appropriate to fulfill any Borrowers' obligations under the Loan Documents.

Section 9. REPRESENTATIONS AND WARRANTIES

9.1 General Representations and Warranties. To induce Agent and Lenders to enter into this Agreement and to make available the Revolver Commitments, Revolver Loans and Letters of Credit, Parent and each Borrower represents and warrants that:

9.1.1 **Organization and Qualification.** Parent and its Subsidiaries are duly organized, validly existing and in good standing under the laws of the jurisdiction of their organization, except where the failure to be so organized or validly existing (other than in the case of a Borrower) or in good standing could not reasonably be expected to have a Material Adverse Effect. Parent and its Subsidiaries are duly qualified, authorized to do business and in good standing in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect. No Obligor is an EEA Financial Institution.

9.1.2 **Power and Authority.** Each Obligor is duly authorized to execute, deliver and perform its obligations under the Loan Documents to which it is a party. The execution, delivery and performance by each Obligor of the Loan Documents to which it is a party have been duly authorized by all necessary Corporate or organizational action, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, other than those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of any Lien (other than Permitted Liens) on any Property of any Obligor, except with respect to contravention, violation or imposition of any Lien referred to in clauses (c) and (d) above, could not reasonably be expected to result in a Material Adverse Effect.

9.1.3 **Enforceability.** Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable against such Obligor in accordance with its terms, except as enforceability may be limited by bankruptcy, fraudulent transfer, insolvency, reorganization, moratorium, administration or similar laws relating to, limiting or otherwise affecting creditors' rights or by equitable principles or principles of public order relating to enforceability.

9.1.4 **Capital Structure.** **Schedule 9.1.4** sets forth, as of the Closing Date, for each Subsidiary of Parent, its name, its jurisdiction of organization and its authorized and issued Equity Interests. Parent or its applicable Subsidiary has good title to its Equity Interests in its Subsidiaries, subject only to Agent's Lien and Permitted Liens, and all such Equity Interests are duly issued, fully paid and non-assessable. As of the Closing Date, except as set forth in **Schedule 9.1.4**, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney relating to Equity Interests of or any of its Subsidiaries or Parent.

9.1.5 **Corporate Names; Locations.** During the five years preceding the Closing Date, except as shown on **Schedule 9.1.5**, neither Parent nor any of its Subsidiaries has been known as or used any corporate, fictitious or trade names, has been the surviving corporation of a merger or combination, or has acquired any substantial part of the assets of any Person. As of the Closing Date, the chief executive offices and other places of business of Parent and its Subsidiaries are shown on **Schedule 8.7.1**.

9.1.6 **Title to Properties; Priority of Liens.** Each of Parent and its Subsidiaries has good and indefeasable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property reflected in any financial statements delivered to Agent or Lenders, in each case free of Liens except Permitted Liens and minor defects in title to its Real Estate that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purpose. Each of Parent and its Subsidiaries has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, in each case other than Permitted Liens. Subject to actions required to be taken by Agent, including the filing of UCC-1 financing statements, all Liens of Agent in the Collateral will be duly perfected, first priority Liens, subject only to Permitted Liens.

9.1.7 **Financial Statements.** The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, of Parent and its Subsidiaries that have been and are hereafter delivered to Agent and Lenders, are prepared in accordance with GAAP, and fairly present the financial positions and results of operations of Parent and its Subsidiaries at the dates and for the periods indicated, subject, in the case of certain interim statements,

to the absence of ~~footnote~~footnotes and normal year-end adjustments. All projections pertaining to Parent and its Subsidiaries delivered from time to time to Agent and Lenders by or on behalf of the Obligor have been prepared in good faith, based on assumptions believed to be reasonable in light of the circumstances at such time, it being understood that (a) whether or not such projections are in fact achieved will depend upon future events which are beyond the control of Parent or any of its Subsidiaries, (b) no assurance can be given that such projections will be realized, (c) actual results may vary from the projections and such variations may be material and (d) the projections should not be regarded as a representation by Parent or any of its Subsidiaries or their management that the projected results will be achieved. Since January 31, 2019, there has been no change in the financial condition of Parent or any of its Subsidiaries (when taken as a whole) that could reasonably be expected to have a Material Adverse Effect. Each Borrower and its Subsidiaries, taken as a whole, are Solvent.

9.1.8 Reserved.

9.1.9 Taxes. Parent and each of its Subsidiaries have filed all federal and other material tax returns that it is required by Applicable Law to file, and has paid, caused to be paid or made provision for the payment of, all material Taxes upon it, its income and its Properties that are due and payable, except in each case to the extent constituting Permitted Liens.

9.1.10 Reserved.

9.1.11 Intellectual Property. Each of Parent and its Subsidiaries owns or has the lawful right to use all Intellectual Property necessary for the conduct of its business, without conflict with any rights of others except for any such failure to own or have rights, conflict of infringement that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. There is no pending or, to Parent's or any Borrower's knowledge, Intellectual Property Claim threatened in writing with respect to Parent, any of its Subsidiaries or any of their Intellectual Property which could reasonably be expected to result in a Material Adverse Effect. All material Intellectual Property owned, used or licensed by, or otherwise subject to any interests of, Parent or its Subsidiaries is shown on **Schedule 9.1.11** (as such Schedule may be updated by Borrowers from time to time at the time of the delivery of a Compliance Certificate in accordance with **Section 10.1.2**). It is understood and agreed that the representation and warranty set forth in this **Section 9.1.11**, as it relates to items disclosed on **Schedule 9.1.11**, shall be deemed not to have been breached to the extent any information set forth on such Schedule changes, so long as such Schedule is updated to reflect such changes in connection with the next succeeding delivery of a quarterly Compliance Certificate.

9.1.12 Governmental Approvals. Each of Parent and its Subsidiaries have, is in compliance with, and is in good standing with respect to, all Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. To each Borrowers' knowledge, all necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Parent and its Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, in each case except where the failure to have such license, permit or certificate or noncompliance could not reasonably be expected to have a Material Adverse Effect.

9.1.13 Compliance with Laws. Each of Parent and its Subsidiaries has duly complied, and its Properties and business operations are in compliance, in all material respects with all Applicable Law (including all Consumer Finance Laws), except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There are no citations, notices or orders of material non-compliance issued to Parent or any of its Subsidiaries under any Applicable Law, except as could not reasonably be expected to result in a Material Adverse Effect.

9.1.14 Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.14**, to Parent's or any Borrower's knowledge, neither Parent's nor any of its Subsidiaries' past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any Environmental Release that could reasonably be expected to have a Material Adverse Effect. Neither Parent nor any of its Subsidiaries has received any Environmental Notice that could reasonably be expected

to have a Material Adverse Effect. Neither Parent nor any of its Subsidiaries has knowledge of any facts or conditions that would reasonably be expected to result in any material contingent liability with respect to any Environmental Release, environmental pollution or hazardous material on any Real Estate now or, to Parent's or any Borrower's knowledge, previously owned, leased or operated by it, in each case which could reasonably be expected to result in a Material Adverse Effect.

9.1.15 Burdensome Contracts. Neither Parent nor any of its Subsidiaries is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect.

9.1.16 Litigation. Except as shown on **Schedule 9.1.16**, there are no proceedings or investigations pending or, to Parent's or any Borrower's knowledge, threatened in writing against Parent or its Subsidiaries, or any of their businesses, operations or Properties that (a) as of the Closing Date, relate to any Loan Documents or transactions contemplated thereby or (b) could reasonably be expected to have a Material Adverse Effect. Neither Parent nor its Subsidiaries are in default with respect to any order, injunction or judgment of any Governmental Authority.

9.1.17 No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default.

9.1.18 ERISA. Except as could not reasonably be expected, whether individually or in the aggregate, to result in a Material Adverse Effect:

(a) Each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter has been submitted to the IRS with respect thereto and, to the knowledge of Borrowers, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has met all applicable requirements under the Code, ERISA and the Pension Protection Act of 2006, and no application for a waiver of the minimum funding standards or an extension of any amortization period has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of Borrowers, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan. To the knowledge of the Borrowers, there has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60% (iii) no Obligor or ERISA Affiliate has incurred any liability to the PBGC except for the payment of premiums, and no premium payments are due and unpaid; (iv) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; and (v) no Pension Plan has been terminated by its plan administrator or the PBGC such that there remains material liability in connection therewith.

(d) With respect to any Foreign Plan, (i) all employer contributions required by law or by the terms of the Foreign Plan have been made and (ii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

9.1.19 Trade Relations. There exists no actual or threatened termination, limitation or modification of any business relationship between Parent or its Subsidiaries and any customer or supplier, or any group of customers or suppliers, which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

9.1.20 Labor Relations. Except as described on **Schedule 9.1.20**, as of the Closing Date, neither Parent nor its Subsidiaries are party to or bound by any collective bargaining agreement. There are no material grievances, disputes or controversies with any union or other organization of Parent or its Subsidiaries' employees that could reasonably be expected to have a Material Adverse Effect, or, to any Borrower's knowledge, any asserted or

threatened strikes, material work stoppages or material demands for collective bargaining that could reasonably be expected to have a Material Adverse Effect.

9.1.21 Reserved.

9.1.22 Not a Regulated Entity. No Obligor is an “investment company” or a “person directly or indirectly controlled by or acting on behalf of an investment company” within the meaning of the Investment Company Act of 1940.

9.1.23 Margin Stock. Neither Parent nor its Subsidiaries are engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No Revolver Loan proceeds or Letters of Credit will be used by Borrowers to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose in any manner that would result in a violation of Regulations T, U or X of the Board of Governors.

9.1.24 OFAC. No Borrower, Subsidiary or, to the knowledge of any Borrower, any director, officer, employee, agent or representative thereof, is or is owned or controlled by any individual or entity that is currently the target of any Sanction or is located, organized or resident in a Designated Jurisdiction.

9.1.25 Benefit Plans. Parent and each Borrower represents and warrants as of the First Amendment Effective Date that Parent nor any of its Subsidiaries is not and will not be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Revolver Loans, the Letters of Credit or the Revolver Commitments.

9.1.26 Beneficial Ownership Certification. As of the First Amendment Effective Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

9.2 Complete Disclosure. As of the Closing Date only, none of the written reports, Loan Documents, financial statements, certificates or other written information (other than any projections, pro formas, budgets, and other forward-looking information and information of a general economic or industry nature) concerning Parent and its Subsidiaries furnished by or at the direction of any Obligor to Agent and the Lenders prior to the Closing Date in connection with the negotiation of this Agreement or any other Loan Document, when taken as a whole, contains, as of the date furnished, any material misstatement of fact or omits to state any material fact necessary to make the statements therein not materially misleading in light of the circumstances under which such statements were made.

Section 10. COVENANTS AND CONTINUING AGREEMENTS

10.1 Affirmative Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent and each Borrower shall, and shall cause each of their Subsidiaries to:

10.1.1 Inspections; Appraisals.

(a) Permit Agent from time to time, subject (unless a Default or Event of Default exists) to reasonable notice and during normal business hours, to visit and inspect the Properties of the Obligors, inspect, audit and make extracts from Obligors’ books and records, and discuss with its officers, employees, agents, advisors and independent accountants Obligors’ business, financial condition, assets and results of operations (it being understood that a representative of Parent shall be allowed to be present in any discussions with independent accountants). Lenders may participate in any such visit or inspection, at their own expense. None of Agent, any Issuing Bank or Lenders shall have any duty to any Obligor to make any inspection, nor shall Agent have any obligation to (but Agent may) share any results of any inspection, appraisal or report with any Obligor. The Borrowers acknowledge that all inspections, appraisals and reports are prepared by Agent and Lenders for their purposes, and Borrowers shall not be entitled to rely upon them. No Borrowing Base calculation shall include Collateral acquired in a Permitted Acquisition or otherwise outside the Ordinary Course of Business until completion of applicable field examinations and appraisals

(which shall not be included in the limits provided in **Section 10.1.1(b)**) satisfactory to Agent and delivery to Agent of any material documents related to such Permitted Acquisition.

(b) Reimburse Agent for all its reasonable out-of-pocket charges, costs and expenses in connection with (i) examinations of Obligor's books and records or any other financial or Collateral matters as it deems appropriate, up to two (2) times per Loan Year (provided, that if at all times during such Loan Year (other than during the Covenant Relief Period), Availability measured as of each month-end (as reflected in the Loan Account) is greater than or equal to 40% of the Borrowing Base, Borrowers shall be obligated to only reimburse Agent for one (1) such examination conducted during such Loan Year); and (ii) appraisals of Inventory up to two (2) times per Loan Year (provided, that if at all times during any Loan Year, the Inventory Formula Amount is less than 10% of the Borrowing Base and Availability measured as of each month-end (as reflected in the Loan Account) is greater than 10% of the Borrowing Base, Borrowers shall be obligated to only reimburse Agent for one (1) such appraisal conducted during such Loan Year); provided, that if an examination or appraisal is initiated during the existence of an Event of Default, all charges, costs and expenses therefor shall be reimbursed by Borrowers without regard to such limits. Subject to and without limiting the foregoing, Parent and Borrowers shall pay Agent's then standard charges for each day that an employee of Agent or its Affiliates is engaged in any examination activities, and shall pay the standard charges of its internal appraisal group.

(c) Notwithstanding anything to the contrary contained in the Loan Documents, none of Parent, Borrowers and any of their Subsidiaries shall be required to disclose or provide any information (i) that constitutes non-financial trade secrets or non-financial proprietary information of such Person or any of its Subsidiaries or any of their respective customers and/or suppliers, (ii) in respect of which disclosure to Agent or any Lender (or any of their respective representatives) is prohibited by any Applicable Law, (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) in respect of which Parent, Borrowers or any Subsidiary owes confidentiality obligations to any third party (information of the type set forth in clauses (i) through (iv) collectively, "Confidential Information").

10.1.2 Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made in accordance with GAAP reflecting all financial transactions; and furnish to Agent (provided, that the documents required to be delivered pursuant to **clauses (a), (b) and (h)** below shall be deemed to have been delivered on the date on which such documents are posted on the Securities and Exchange Commission's website at www.sec.gov):

(a) as soon as available, and in any event no later than (i) 90 days after the close of each Fiscal Year, balance sheets as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for such Fiscal Year, on a consolidated basis for Parent and its Subsidiaries, which consolidated statements shall be audited and certified by a firm of independent certified public accountants of nationally recognized standing selected by Parent or otherwise acceptable to Agent (which audit shall be without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit (except for any such qualification pertaining to the maturity of any Debt occurring within 15 months of the relevant audit or any breach or anticipated breach of any financial covenant)), and shall set forth in comparative form corresponding figures for the preceding Fiscal Year; and (ii) 60 days after the end of each Fiscal Year, internal management financial statements (balance sheet, statement of income, and cash flow statement) as of the end of such Fiscal Year, on a consolidated basis for Parent and its Subsidiaries; provided, that the financial statements delivered pursuant to this clause (ii) shall be delivered to Agent for informational purposes only and the calculation of the Applicable Margin in the manner described therein;

(b) as soon as available, and in any event no later than 45 days after the end of each Fiscal Quarter that is not the last Fiscal Quarter of a Fiscal Year, unaudited balance sheets as of the end of such Fiscal Quarter and the related statements of income and cash flow for such Fiscal Quarter and for the portion of the Fiscal Year then elapsed, on a consolidated basis for Parent and its Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by chief financial officer (or other officer holding a similar role) of Parent as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results

of operations of Parent and its Subsidiaries on a consolidated basis as of such date and for such Fiscal Quarter and period, subject to normal year-end adjustments and the absence of footnotes;

(c) as soon as available, and in any event within 30 days after the end of each month that is not the last month of a Fiscal Year or Fiscal Quarter, internal management financial statements (balance sheet, statement of income, and cash flow statement) as of the end of such month, on a consolidated basis for Parent and its Subsidiaries, setting forth in comparative form corresponding figures for (i) the preceding Fiscal Year and (ii) such period set forth in the projections delivered pursuant to **Section 10.1.2(f)** hereof, in each case on a month-to-date and year-to-date basis with respect to profit and loss and cash flow statements, in each case certified by the chief financial officer (or other officer holding a similar role) of Parent as prepared in accordance with its normal internal, interim reporting practices;

(d) within the time frame specified for the delivery of financial statements under clauses (a)(i), (a)(ii) and (b) above, (i) a Compliance Certificate executed by the chief financial officer (or other officer holding a similar role) of Parent; provided, that the Compliance Certificate delivered with the financial statements pursuant to clause (a)(ii) shall be delivered to Agent for informational purposes and the calculation of the Applicable Margin in the manner described in the definition thereof only and (ii) a copy of the Credit and Collection Guidelines if changes have been made since the Closing Date or the date of the most recent delivery of the Credit and Collection Guidelines (which Credit and Collection Guidelines may, in the case of Confidential Information, be redacted);

(e) together with the financial statements delivered pursuant to **Section 10.1.2(a)(i)**, a copy of the final management letters (if any) submitted to Borrowers by their accountants in connection with such financial statements, if any;

(f) not later than 60 days after the commencement of each Fiscal Year, projections of Parent's consolidated balance sheets, results of operations, cash flow and Availability for such Fiscal Year, month by month;

(g) at Agent's reasonable request, a listing of each Borrower's trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form satisfactory to Agent;

(h) promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that Parent or any Borrower has made generally available to its shareholders; copies of any regular, periodic and special reports or registration statements or prospectuses that Parent or any Borrower files with any Governmental Authority, except the Securities and Exchange Commission (which shall be deemed to have been delivered when filed), or any securities exchange; and copies of any press releases or other statements made available by Parent or a Borrower to the public concerning material changes to or developments in the business of Parent or such Borrower;

(i) evidence as to Borrowers' compliance with Consumer Finance Laws as reasonably requested by Agent from time to time;

(j) promptly, notice of any designation of any Real Estate subject to a Mortgage or Leasehold Mortgage as being located in a special flood hazard zone;

(k) during the Covenant Relief Period, with each Borrowing Base Report (and such other times as reasonably requested by Agent), Borrowers shall provide a calculation of Liquidity to Agent together with such information as Agent may reasonably request; and

(l) ~~(k)~~ such other reports and information (financial or otherwise) as Agent may reasonably request (at its reasonable discretion or at the reasonable request of any Lender) from time to time in connection with any Collateral or the financial condition or business of any Obligor.

Information required to be delivered pursuant to this **Section 10.1.2** shall be deemed to have been delivered if such information, or one or more annual or quarterly reports containing such information, shall be have been posted by Agent on SyndTrak, IntraLinks or a similar site to which the Agent and the Lenders have been granted access or shall be available on the website of the Securities and Exchange Commission at <http://www.sec.gov> or on the website of Parent. Information required to be delivered pursuant to this **Section 10.1.2** may also be delivered by electronic communications pursuant to procedures approved by the Agent. Each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

10.1.3 **Notices.** Notify Agent and Lenders in writing, promptly after a Senior Officer of Borrower Agent obtains knowledge thereof, of any of the following that affects an Obligor: (a) the commencement of any proceeding or investigation which would reasonably be expected to have a Material Adverse Effect; (b) any default under or termination of a Material Contract; (c) the existence of any Default or Event of Default; (d) the occurrence of any event (including any Intellectual Property Claim, violation or asserted violation of Applicable Law (including ERISA, OSHA, FLSA and Environmental Laws), an Environmental Release, ERISA Event or Regulatory Event) that would reasonably be expected to have a Material Adverse Effect; (e) any judgment in an amount exceeding the Threshold Amount; (g) any written allegation, claim, fact or circumstance indicating that any ~~Contract~~Third Party Contract, Contract originated by it or, at the time of such event, then serviced, collected or otherwise administered by it, Credit and Collection Guidelines, act, omission or business practice of Parent, any Obligor or any Subsidiary violates or fails to comply with any Consumer Finance Law and which allegation, claim, fact or circumstance claims damages in excess of the Threshold Amount; and (h) the sale of any Inventory on consignment or approval or any other basis under which the customer may return or require a Borrower to repurchase such Inventory.

10.1.4 **Landlord and Storage Agreements.** Upon request, provide Agent with copies of all existing agreements, between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5 **Compliance with Laws.** Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection and payment of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws with which the Borrowers and their Subsidiaries shall comply in all material respects) or maintain could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, if an Environmental Release which could reasonably be expected to result in a Material Adverse Effect requiring remediation under Environmental Laws occurs at or on any Properties of Parent or its Subsidiaries, Parent, the relevant Borrower or the applicable Subsidiary shall act, or shall cause the legally responsible party to act, in each case promptly and diligently to investigate and report to Agent and, as required by Environmental Laws, to all appropriate Governmental Authorities the extent of, and to undertake or cause the legally responsible party to undertake appropriate and necessary remedial action to address such Environmental Release as required by applicable Environmental Laws.

10.1.6 **Taxes.** Pay and discharge all material Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are not overdue by more than 30 days or (i) such Taxes are being Properly Contested or (ii) the failure to pay such Taxes could not reasonably be expected to result in a Material Adverse Effect.

10.1.7 **Insurance.** Maintain insurance with insurers with respect to the Properties and business of Borrowers and its Subsidiaries of such type, in such amounts, and with such coverages and deductibles as are customary for companies similarly situated and operating in the same or similar locations.

10.1.8 **Licenses.** Except as could not reasonably be expected to result in a Material Adverse Effect: keep each License affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and its Subsidiaries in full force and effect; notify Agent, upon its request, of any modification to any such License; pay all Royalties when due; and notify Agent of any default or breach asserted by any Person to have occurred under any such License.

10.1.9 Future Subsidiaries. Promptly notify Agent upon any Person becoming a Subsidiary of Parent (including, without limitation, upon the formation of any Subsidiary that is a Delaware Divided LLC) and, if such Person is neither a Foreign Subsidiary nor a Securitization Subsidiary, cause it to guaranty the Obligations in a manner reasonably satisfactory to Agent, and to execute and deliver such documents, instruments and agreements and to take such other actions as Agent shall reasonably require to evidence and perfect a Lien in favor of Agent (for the benefit of Secured Parties) on all assets of such Person.

10.1.10 Reserved.

10.1.11 Reserved.

10.1.12 Charge-Off Policy. The Borrowers shall establish and implement a policy for charging off the unpaid balance of its delinquent Contracts as set forth in the Credit and Collections Guidelines.

10.1.13 Loss Reserve. Parent and its Subsidiaries shall maintain, on a consolidated basis, loss reserves at all times during the term of the Agreement in amounts required to be maintained under GAAP.

10.1.14 Beneficial Ownership Regulation. Promptly following any request therefor, provide information and documentation reasonably requested by the Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act and the Beneficial Ownership Regulation.

10.1.15 Anti-Cash Hoarding. If, on any day, there shall be Revolver Loans outstanding and the sum of unrestricted cash and Cash Equivalents of the Parent, Borrowers and their Subsidiaries (other than a Securitization Subsidiary) in the aggregate among all such Persons in excess of \$100,000,000, then, the Borrowers shall apply such amounts in excess of \$100,000,000 on the second following Business Day to prepay the outstanding principal balance of the Revolver Loans (without premium or penalty). Amounts prepaid pursuant to this Section 10.1.15 may be reborrowed in accordance with Section 2.1.

10.1.16 Minimum Liquidity. At all times during the Covenant Relief Period, Borrowers shall maintain Liquidity in an amount greater than \$125,000,000.

10.1.17 Minimum Availability. At all times during the Covenant Relief Period, maintain Availability in an amount equal to the greater of (i) 25% of the Borrowing Base and (ii) \$75,000,000.

10.2 Negative Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent and each Borrower shall not, and shall not permit any of its Subsidiaries to:

10.2.1 Permitted Debt. Create, incur, guarantee or suffer to exist any Debt, except:

(a) the Obligations;

(b) (i) Subordinated Debt; and (ii) unsecured Debt of Parent or its Subsidiaries so long as, in the case of this clause (b)(ii), after giving effect to such Debt, Parent shall be in Pro Forma Compliance with the covenants set forth in **Section 10.3.2** and **10.3.3** and such Indebtedness have a maturity no earlier than the date that is 91 days after the Revolver Termination Date;

(c) Permitted Purchase Money Debt;

(d) Debt (other than the Obligations, Subordinated Debt and Permitted Purchase Money Debt), but only to the extent outstanding on the Closing Date and not satisfied with proceeds of the initial Revolver Loans;

(e) Debt that is assumed or acquired in connection with any Acquisition permitted hereunder or the acquisition of any asset or group of assets so long as (i) such Debt was not incurred in contemplation of such Acquisition or acquisition of assets and (ii) either does not exceed (x) \$25,000,000 in the aggregate outstanding at any time or (y) after giving effect to each such assumption or acquisition of such Debt, the Payment Conditions are satisfied;

(f) Permitted Contingent Obligations;

(g) Debt owed to a Flooring Lender; provided, that such Flooring Lender has entered into a Flooring Intercreditor Agreement with respect to such Debt;

(h) Debt incurred for the acquisition of Real Estate by an Obligor so long as the purchase price of such Real Estate does not exceed the fair market value of the Real Estate at the time of its acquisition and the Debt incurred in connection therewith does not exceed 100% of the purchase price (including fees, costs and expenses, prepaid interest and similar items in connection therewith) of such Real Estate; provided, that the aggregate outstanding Debt permitted under this subsection (h) does not at any time exceed \$30,000,000;

(i) Refinancing Debt as long as each Refinancing Condition is satisfied with respect to such Refinancing Debt;

(j) Debt incurred by a Securitization Subsidiary pursuant to one or more Permitted ABS Transactions so long as at or prior to the initial transfer of Contracts under any such transaction, the applicable Permitted ABS Agent has entered into a Permitted ABS Intercreditor Agreement;

(k) Debt incurred under Permitted Originator Notes;

(l) Debt evidenced by the Existing HY Notes;

(m) Debt evidenced by the Permitted Convertible Notes or by the Permitted Additional HY Note;

(n) Debt in the form of guarantees by Parent or any of its Subsidiaries of Debt permitted under this **Section 10.2.1**;

(o) obligations of Parent or any of its Subsidiaries under any Hedging Agreements not entered into for speculative purposes (including Hedging Agreement entered into by any Securitization Subsidiary in connection with a Permitted ABS Transaction);

(p) (i) Debt incurred in the Ordinary Course of Business in respect of netting services, overdraft protections, employee credit card programs, Bank Products and otherwise in connection with Deposit Accounts and Securities Accounts and (ii) Debt incurred in connection with letters of credit, bankers' acceptances, bank guarantees, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, warehouse receipts or similar facilities, in each case incurred or undertaken in the Ordinary Course of Business;

(q) Debt among Parent and its Subsidiaries; provided that (i) Debt of any Subsidiary that is not an Obligor owing to any Obligor shall be permitted under **Section 10.2.5** and (ii) Debt of the Obligors owing to any Subsidiary that is not an Obligor shall be expressly subordinated to the Obligations under the Loan Documents on terms reasonably acceptable to Agent (it being understood that such subordination terms shall permit the repayment of interest and/or principal with respect to such Debt in the absence of notification by Agent during the existence of an Event of Default that such payments shall no longer be made);

(r) Debt consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the Ordinary Course of Business;

(s) Debt incurred by Parent and its Subsidiaries representing (i) deferred compensation to directors, officers, employees, members of management and consultants of Parent, Parent and its Subsidiaries in the Ordinary Course of Business and (ii) deferred compensation or other similar arrangements in connection with any Permitted Acquisition or any Investment permitted hereby;

(t) Debt arising out of the creation of any Lien (other than for Liens securing debt for Borrowed Money) permitted under **Section 10.2.2**;

(u) Debt incurred in the Ordinary Course of Business in respect of obligations of Parent and its Subsidiaries to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services;

(v) Debt incurred by Parent and its Subsidiaries representing Investments (other than for Restricted Investments) permitted under **Section 10.2.5**;

(w) unfunded pension fund and other employee benefit plan obligations and liabilities incurred in the Ordinary Course of Business to the extent that they are permitted to remain unfunded under applicable law;

(x) Debt owed to (including obligations in respect of letters of credit, bank guarantees or similar instruments for the benefit of) any Person providing workers' compensation, securing unemployment insurance and other social security laws or regulation, health, disability or other employee benefits or property, casualty or liability insurance or self insurance or other similar obligations to Parent or any Subsidiary;

(y) Debt supported by a Letter of Credit, in a principal amount not in excess of the Stated Amount of such Letter of Credit;

(z) Indebtedness in respect of any letter of credit issued in favor of any Issuing Bank or Swingline Lender to support any Defaulting Lender's participation in Letters of Credit issued, or Swingline Loans made hereunder;

(aa) Debt that is not included in any of the preceding clauses of this Section and does not exceed \$50,000,000 in the aggregate outstanding at any time;

(ab) deferred compensation arrangements in the Ordinary Course of Business;

(ac) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on Debt described in paragraphs (a) through (aa) above; and

(ad) the Existing BAML Letters of Credit and Existing BAML Bank Products.

10.2.2 **Permitted Liens.** Create or suffer to exist any Lien upon any of its Property, except the following (collectively, "**Permitted Liens**"):

(a) any Lien (i) created under the Loan Documents and (ii) on cash or deposits granted in favor of any Swingline Lender or any Issuing Bank hereunder to Cash Collateralize any Defaulting Lender's participation in Letters of Credit issued, or Swingline Loans made, under this Agreement, as applicable;

(b) Purchase Money Liens securing Permitted Purchase Money Debt;

(c) Liens for Taxes that are not overdue by more than thirty (30) days or, if more than thirty (30) days overdue, (i) which are being Properly Contested or (ii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(d) statutory Liens arising in the Ordinary Course of Business including landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens arising in the Ordinary Course of Business and securing obligations that are not overdue by more than thirty (30) days or, if more than thirty (30) days overdue, (i) which are being Properly Contested, or (ii) are subject to a Lien Waiver, or (iii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(e) (i) Liens incurred or pledges or deposits made in the Ordinary Course of Business to secure the performance of bids, trade contracts (other than for Borrowed Money), leases (other than Capital Leases), statutory obligations, surety, stay, customs and appeal bonds, performance, performance and completion and return of money bonds, government contracts, financial assurances and completion guarantees and similar obligations, including those incurred to secure health, safety and environmental obligations in the Ordinary Course of Business or arising as a result of progress payments under government contracts and (ii) obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support payment of the items set forth in clause (i) of this **Section 10.2.2(e)**;

(f) Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;

(g) Liens arising by virtue of a judgment or judicial order against Parent or its Subsidiaries, or any Property of Parent or its Subsidiaries, not constituting an Event of Default;

(h) (i) easements, rights-of-way, restrictions, trackage rights, leases (other than Capital Lease Obligations), licenses, special assessments, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any Borrowed money and do not materially interfere with the Ordinary Course of Business and (ii) Liens and other matters disclosed in any mortgagee title policy and any replacement, modification, extension or renewal of such Lien;

(i) (i) contractual rights of set-off (A) relating to the establishment of depository relationships with banks not given in connection with the issuance of Debt for borrowed money, (B) relating to pooled deposit, sweep accounts and netting arrangements of Parent and its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business, and (C) relating to purchase orders and other agreements entered into with customers of Parent and its Subsidiaries in the Ordinary Course of Business and (ii) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights (including overdraft protection);

(j) Liens in favor of a Flooring Lender so long as such Liens do not attach to any assets of a Borrower other than the Inventory floored by such Flooring Lender and the proceeds and products thereto;

(k) Liens securing only the Real Estate owned by a Borrower to secure Debt permitted under **Section 10.2.1(h)**;

(l) existing Liens shown on **Schedule 10.2.2**, and any refinancing, modification, replacement, renewal or extension thereof; provided, that the Lien does not extend to any additional property other than after-acquired property that is affixed to or incorporated in the property covered by such Lien and the proceeds and products thereof;

(m) Liens on the Equity Interests of Parent which are held by Parent, to the extent such Equity Interests are deemed to be Margin Stock;

- (n) Liens on the Securitized Contracts of a Securitization Subsidiary and Liens on the assets of a Securitization Subsidiary, in each case, in favor of a Permitted ABS Agent and subject to a Permitted ABS Intercreditor Agreement;
- (o) Security interests as described in 9-109(a)(3) of the UCC created in connection with sales of accounts, chattel paper, payment intangibles or promissory notes permitted by or not otherwise prohibited by this Agreement or any other Loan Document;
- (p) any interest or title of a lessor, sublessor, licensor or sublicensee under any leases, subleases, licenses or sublicenses entered into by Parent or any Subsidiary in the Ordinary Course of Business;
- (q) (i) leases, subleases, licenses or sublicenses of property in the Ordinary Course of Business or (ii) rights reserved to or vested in any Person by the terms of any lease, license, franchise, grant or permit held by Parent or any Subsidiary or by a statutory provision to terminate any such lease, license, franchise, grant or permit or to require periodic payments as a condition to the continuance thereof;
- (r) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;
- (s) Liens (i) arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by Parent or the Subsidiaries in the Ordinary Course of Business and (ii) arising by operation of law under Article 2 of the Uniform Commercial Code;
- (t) Liens on insurance policies and the proceeds thereof securing the financing of Debt permitted pursuant to **Section 10.2.1(t)(i)**;
- (u) ground leases in the Ordinary Course of Business in respect of Real Estate on which facilities owned or leased by Parent or any Subsidiary are located;
- (v) Liens securing obligations under Hedging Agreements permitted by **Section 10.2.1(o)**;
- (w) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;
- (x) Liens deemed to exist in connection with permitted repurchase obligations or set-off rights;
- (y) Liens securing Debt permitted under **Section 10.2.1(e)**; provided, however, such Liens are not created or incurred in connection with, or in contemplation of, such acquisition and such Liens shall be limited to all or part of the same assets (including after acquired property to the extent it would have been subject to a Lien in respect of the arrangements under which such Liens arose) that secured the obligations to which the original Liens relate (plus improvements on such Property);
- (z) Liens securing obligations in respect of letters of credit, banker's acceptances, bank guarantees or similar instruments permitted under **Sections 10.2.1(p), (x) and (z)**;
- (aa) Liens (i) solely on any cash earnest money deposits or cash equivalents in connection with any letter of intent or purchase agreement or otherwise in connection with any escrow arrangements with respect to any Permitted Acquisition or other Investment permitted hereunder and (ii) consisting of an agreement to dispose of any property in a transaction permitted hereunder;

(bb) Liens arising from precautionary UCC financing statements (or similar filings under Applicable Law) regarding operating leases or consignment or bailee arrangements; and

(cc) other Liens with respect to property or assets of Parent or any of its Subsidiaries; provided that the aggregate principal amount of the Debt or other obligations secured by such Liens does not exceed \$50,000,000 at any time outstanding; provided, further, that if such Liens attach to any Collateral included in the Borrowing Base, such Liens will be subject to an intercreditor agreement in form and substance satisfactory to Agent.

(dd) Liens on cash collateral (including all interest, dividends, earnings and other proceeds earned thereon) to secure contingent obligations under the Existing BAML Letters of Credit and the Existing BAML Bank Products.

(ee) Liens securing Borrowers' obligations under the HY Notes and HY Note Indentures, in each case, subject to a HY Note Subordination Agreement.

10.2.3 Capital Expenditures. Make Capital Expenditures in excess of \$100,000,000 in the aggregate during any period of four (4) consecutive Fiscal Quarters, measured as at the end of each Fiscal Quarter.

10.2.4 Distributions. Declare or make any Distributions, except Permitted Distributions.

10.2.5 Restricted Investments. Make any Restricted Investment.

10.2.6 Disposition of Assets. Make any Asset Disposition, except:

(a) a Permitted Asset Disposition;

(b) a disposition of Equipment under **Section 8.4.2**;

(c) a transfer of Property by (i) an Obligor to a Borrower or any other Obligor, (ii) by a Subsidiary that is not an Obligor to an Obligor or any other Subsidiary or (iii) by an Obligor to a non-Obligor to the extent permitted by **Section 10.2.5**;

(d) an Asset Disposition of Margin Stock by Parent;

(e) the disposition of charged-off receivables in the Ordinary Course of Business;

(f) dispositions of Property subject to casualty, condemnation or similar proceedings (including in lieu thereof) upon receipt of the Net Proceeds therefor;

(g) dispositions of Real Estate and related assets in the Ordinary Course of Business in connection with relocation activities for directors, officers, employees, members of management, or consultants of Parent and the Subsidiaries; and

(h) the transfer or abandonment of Intellectual Property rights no longer used or useful in the business in accordance with the reasonable business judgement of Borrower Agent.

10.2.7 Reserved.

10.2.8 Restrictions on Payment of Certain Debt.

(a) Make any payments (whether voluntary or mandatory, or a prepayment, redemption, repurchase, retirement, defeasance or acquisition) with respect to any Subordinated Debt, except

(i) regularly scheduled payments of principal, interest, fees, expenses and indemnities, but only to the extent permitted or not restricted under any subordination agreement relating to such Debt;

(ii) payments made in respect of a Permitted Originator Note;

(iii) any replacements, renewals, extensions, refinancings, refundings or exchanges of any such Subordinated Debt for like or junior debt with the proceeds of other Debt permitted under **Section 9.2.10.2.1**;

(iv) the conversion of any such Subordinated Debt to, or payment with the proceeds of, Equity Interests;

(v) additional payments and prepayments in respect of the Subordinated Debt with net proceeds from the incurrence of Subordinated Debt or other unsecured Debt permitted hereunder;

(vi) Refinancing Debt in respect of such Subordinated Debt;

(vii) payments of, and cash payments due upon conversion with respect to, any Permitted Convertible Notes in accordance with the terms thereof; and

(viii) additional cash payments and prepayments so long as, in each case, the Payment Conditions are satisfied.

(b) Make any payment with respect to a Permitted ABS Transaction other than (i) payments made with the proceeds of the Securitized Contracts of the corresponding Permitted ABS Transaction; (ii) payments made in connection with the repurchase of Contracts which are permitted under clause (g) of the definition of Restricted Investments; (iii) [other than during the Covenant Relief Period](#), payments so long as immediately before and after giving effect to any such repayment no Default or Event of Default exists and immediately after giving effect thereto Availability exceeds the greater of (x) \$40,000,000 and (y) 10.0% of the Borrowing Base then in effect; [\(iv\) payments using the proceeds of Investments permitted under clause \(f\)\(ii\) of the definition of Restricted Investments](#).

(c) Make any principal payments (whether voluntary or mandatory, or a prepayment, redemption, repurchase, retirement, defeasance or acquisition) with respect to unsecured Debt (including the HY Notes), except:

(i) regularly scheduled payments of principal and scheduled payments at maturity;

(ii) principal payments made with the proceeds of the incurrence of other unsecured Debt, Permitted Additional HY Notes, and Subordinated Debt permitted hereunder;

[\(iii\) any replacements, renewals, extensions, refinancings, refundings or exchanges of any such unsecured Debt for like debt with the proceeds of other Debt permitted under Section 10.2.1](#);

~~(iv)~~ the conversion of any such Debt to, or payment with the proceeds of, Equity Interests;

~~(v)~~ Refinancing Debt in respect of such unsecured Debt;

~~(vi)~~ principal payments of, and cash payments due upon conversion with respect to, any Permitted Convertible Notes in accordance with the terms thereof; and

(vii) ~~(vi)~~ if the outstanding principal amount of such unsecured Debt is (A) greater than \$15,000,000, any other principal payments with respect to such Debt so long as the Payment Conditions are satisfied with respect to each such payment and (B) \$15,000,000 or less, immediately before and after giving effect to such payment, no Event of Default exists.

provided, that during the Covenant Relief Period, neither Parent, any Borrower nor any of their Subsidiaries shall make any principal prepayments with respect to the Existing HY Notes pursuant to clause (vii) above without the prior written consent of the Agent (acting at the direction of the Required Lenders).

10.2.9 Fundamental Changes.

(a) Merge, combine or consolidate with any Person, or liquidate, wind up its affairs or dissolve itself, in each case whether in a single transaction or in a series of related transactions (including, in each case, pursuant to a Delaware LLC Division), except (i) Parent and its Subsidiaries may engage in Permitted Acquisitions, (ii) any non-Obligor Subsidiary may be merged into or consolidated with, or transfer all or substantially all of its property to, (1) any Borrower or Guarantor (other than Parent), so long as such Borrower or such Guarantor is the surviving entity or the surviving entity assumes the Obligations in a manner satisfactory to Agent, or (2) another non-Obligor Subsidiary, (ii) any Borrower or Guarantor (other than Parent) may merge into or consolidate with any Borrower so long as a Borrower is the surviving entity or the surviving entity assumes the Obligations in a manner satisfactory to Agent, (iii) any Guarantor (other than Parent) may merge into or consolidate with any other Guarantor (other than Parent) and (iv) any Subsidiary may liquidate or dissolve so long as (1) such Subsidiary determines in good faith that such liquidation or dissolution is in its best interest, (2) a Borrower shall only liquidate or dissolve with or into another Borrower with at least one Borrower surviving and (3) a Guarantor shall only liquidate or dissolve into an Obligor or such liquidation or dissolution is an Investment permitted hereunder.

(b) Without providing Agent at least thirty (30) days' prior written notice thereof (or such shorter period as Agent may agree), (i) change its name (ii) change its charter or other organizational identification number or (iii) change its entity type or state of organization.

10.2.10 Reserved.

10.2.11 Organic Documents. Except as required by Applicable Law, amend, modify or otherwise change any of its Organic Documents as in effect on the Closing Date in a manner that would reasonably be expected to be materially adverse to the rights or interests of Agent or Lenders.

10.2.12 Reserved.

10.2.13 Accounting Changes. Change its Fiscal Year without the consent of Agent.

10.2.14 Restrictive Agreements. Become a party to any Restrictive Agreement, except Restrictive Agreements as follows:

(a) in effect on the Closing Date and any replacements, renewals, extensions, refinancings, refundings or exchanges of or any amendment, restatement, amendment and restatement, supplement or other modification expanding the scope of, such restriction or condition, in each case, so long as not done so in a manner materially adverse to the Lenders taken as a whole;

(b) relating to secured Debt permitted hereunder (including any Refinancing Debt in respect thereof), as long as the restrictions apply only to collateral for such Debt (other than the Collateral);

(c) constituting customary restrictions on assignment in leases and other contracts;

- (d) the HY Note Indentures (as amended as permitted hereunder);
- (e) any guaranty by any Subsidiary of Parent of Parent's obligations under any HY Notes as permitted under
- Section 10.2.1(n);**
- (f) pursuant to any Loan Document;
- (g) pursuant to any Permitted ABS Documents entered into by a Securitization Subsidiary or any Organic Document of any Securitization Subsidiary;
- (h) restrictions and conditions imposed by Applicable Law or by any Loan Document;
- (i) 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;
- (j) customary restrictions and conditions contained in agreements relating to Asset Dispositions pending such Asset Disposition; provided such restrictions and conditions apply only to Person and/or assets subject to such Asset Disposition and such sale is permitted hereunder;
- (k) restrictions and conditions that were binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary, so long as the agreements providing for such restrictions and conditions were not entered into in contemplation of such Person becoming a Subsidiary;
- (l) restrictions and conditions imposed by agreements relating to Excluded Subsidiaries;
- (m) customary provisions in joint venture agreements and other similar agreements entered into in connection with any joint venture;
- (n) restrictions on cash or other deposits imposed by suppliers and customers under contracts entered into in the Ordinary Course of Business; and
- (o) customary net worth provisions contained in Real Estate leases entered into by Parent or any of its Subsidiaries.

10.2.15 Reserved.

10.2.16 Conduct of Business. Engage in any lines of business, other than as a conducted on the Closing Date any activities incidental, ancillary or reasonably related thereto (including providing proprietary credit solutions for customers).

10.2.17 Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except

- (a) transactions contemplated by the Loan Documents;
- (b) payment of reasonable compensation to officers and employees for services actually rendered, and loans and advances permitted under this Agreement;
- (c) payment of customary directors' fees and indemnities;
- (d) transactions solely among Obligor to the extent permitted or not restricted hereunder;
- (e) transactions with Affiliates that were consummated prior to the Closing Date or any amendment thereto to the extent such amendment is not adverse to the Lenders in any material respect;

(f) transactions with Affiliates in the Ordinary Course of Business, upon fair and reasonable terms and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate;

(g) entry into a Permitted ABS Purchase Agreement, any other Permitted ABS Documents, and Permitted Originator Notes and all transactions contemplated thereunder;

(h) entry into a guaranty of any HY Notes, Permitted Additional HY Notes or Permitted Convertible Notes facility as permitted under **Section 10.2.1** and all transactions contemplated thereunder;

(i) servicing agreements and administration agreements, and all transactions contemplated thereunder, entered into in connection with a Permitted ABS Transaction;

(j) transactions solely among non-Obligor Subsidiaries;

(k) any Investment not prohibited by **Section 10.2.5** or any merger, consolidation or combination not prohibited by **Section 10.2.9**;

(l) (i) any employment or severance agreements or arrangements entered into by Borrowers or any of the Subsidiaries in the Ordinary Course of Business, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers, directors, members of management or consultants, and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract or arrangement and transactions pursuant thereto;

(m) any purchase by Parent of or contributions to, the Equity Interests of Borrowers;

(n) transactions among Borrowers and the Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the Ordinary Course of Business;

(o) transactions with customers, clients, suppliers or joint ventures for the purchase or sale of goods and services entered into in the Ordinary Course of Business; and

(p) Distributions permitted under **Section 10.2.4**.

10.2.18 Reserved.

10.2.19 Amendments to Subordinated Debt.

(a) Amend, supplement or otherwise modify any document, instrument or agreement relating to any Subordinated Debt, if, in any case, such modification (a) increases the principal balance of such Debt except as permitted by **Section 10.2.1**; (b) accelerates the date on which any installment of principal is due; (c) shortens the final maturity date (except to a date that is no earlier than 91 days after the Revolver Termination Date); or (d) results in the Obligations not being fully benefited by the subordination provisions thereof. This **Section 10.2.19** shall not restrict any amendment, restatement, amendment and restatement, supplement, modification, replacement, renewal, extension and refinancing of Subordinated Debt permitted under this Agreement or the applicable subordination agreement.

10.2.20 Reserved.

10.2.21 Amendment to Permitted ABS Documents. Permit any amendment, supplement or other modification in the Permitted ABS Documents, if it results in any covenants, terms or conditions that are materially

more restrictive or burdensome, taken as a whole, for Borrowers or would otherwise be materially adverse to the interests of the Secured Parties; it being understood that no amendment, supplement, or other modification is adverse if (x) such amendment, supplement, or modification is permitted under the applicable Permitted ABS Intercreditor Agreement or (y) after giving effect to such amendment, supplement or other modification, the transactions under such Permitted ABS Documents as of the date of such amendment, supplement or other modification constitute a Permitted ABS Transaction.

10.3 Financial Covenants. As long as any Revolver Commitments are outstanding and the Full Payment of the Obligations has not occurred, Parent shall on a consolidated basis with its Subsidiaries:

10.3.1 Minimum Interest Coverage Ratio. ~~Maintain~~Other than with respect to the Fiscal Quarters ending during the Covenant Relief Period, maintain an Interest Coverage Ratio at least (a) 1.50:1.00, measured on a trailing two Fiscal Quarter basis and (b) 1.00:1.00 measured for each Fiscal Quarter, in each case as of the last day of each Fiscal Quarter.

10.3.2 Maximum Leverage Ratio. Maintain a Leverage Ratio not greater than ~~4.00:1.00~~4.50:1.00, measured quarterly as of the last day of each Fiscal Quarter.

10.3.3 Maximum ABS Excluded Leverage Ratio. Maintain an ABS Excluded Leverage Ratio not greater than ~~2.00:1.00~~2.50:1.00, measured quarterly as of the last day of each Fiscal Quarter.

10.4 Curative Equity.

10.4.1 Subject to the limitations set forth in **Section 10.4.6**, Borrowers may cure an Event of Default arising out of a breach of any of the financial covenants set forth in **Sections 10.3.1, 10.3.2 and 10.3.3** (the "Specified Financial Covenants") (as the case may be) by way of an investment of Curative Equity prior to the date on which the Compliance Certificate is delivered to Agent pursuant to **Section 10.1.2(d)** in respect of the Fiscal Quarter with respect to which any such breach occurred; provided, that Borrowers' right to so cure an Event of Default shall be contingent on the timely delivery of such Compliance Certificate as required under **Section 10.1.2(d)**.

10.4.2 The Borrowers shall promptly notify Agent of their receipt of any proceeds of Curative Equity and shall apply the same to the payment of the Obligations in the manner specified in **Section 5.3**.

10.4.3 Subject to the limitations set forth in **Section 10.4.6**, any investment of Curative Equity shall be in an amount that is sufficient to cause Parent and its Subsidiaries to be in compliance with all of the Specified Financial Covenants as at the last day of the most recently ended month or Fiscal Quarter (as the case may be), calculated for such purpose as if such amount were additional EBITDA and increase in Tangible Net Worth, and a decrease in total liabilities, as necessary, of Parent and its Subsidiaries as at such date and had been included in the financial calculations of Parent and its Subsidiaries on such date.

10.4.4 In the Compliance Certificate delivered pursuant to **Section 10.1.2(d)** in respect of the month end or Fiscal Quarter end (as the case may be) on which Curative Equity is used to cure any breach of the Specified Financial Covenants, Borrowers shall (i) include evidence of its receipt of Curative Equity proceeds, and (ii) set forth a calculation of the financial results and balance sheet of Parent and its Subsidiaries as at such month end or Fiscal Quarter end (as the case may be) (including for such purposes the proceeds of such Curative Equity as either deemed EBITDA for such month end or Fiscal Quarter end (as the case may be) and the three following month end or Fiscal Quarter end (as the case may be), or increased Tangible Net Worth and decreased total liabilities for such month end or Fiscal Quarter end (as the case may be), as if received on such date), which shall confirm that on a pro forma basis taking into account the application of Curative Equity proceeds, Parent and its Subsidiaries would have been in compliance with the Specified Financial Covenants (as at such date).

10.4.5 Upon delivery of a Compliance Certificate pursuant to **Section 10.1.2(d)** conforming to the requirements of this Section, any Event of Default that is continuing from a breach of any of the Specified Financial

Covenants shall be deemed cured with no further action required by the Lenders. In the event Borrowers do not cure all financial covenant violations as provided in this **Section 10.4**, the existing Event of Default shall continue unless waived by the Required Lenders in writing.

10.4.6 Notwithstanding the foregoing, (i) Borrowers' rights under this **Section 10.4** may be exercised not more than two times during the term of this Agreement, and (ii) the amount of each investment of Curative Equity may not be less than \$1,000,000 or greater than \$20,000,000.

10.5 Contract Forms. The Borrowers shall not include in the Borrowing Base Contracts which are not on the printed forms previously approved in writing by Agent, and Borrowers shall not change or vary the printed forms of such Contracts in any material adverse manner without Agent's prior written consent not to be unreasonably withheld, delayed or conditioned, unless such change or variation is required by any Requirement of Law or recommended by counsel to Borrowers. Agent may reasonably withhold its consent until Agent receives a reasonably satisfactory opinion of Borrowers' counsel regarding compliance of the revised form of Contract with any Requirement of Law.

10.6 Reserved.

Section 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1 Events of Default. Each of the following shall be an "Event of Default" hereunder, if the same shall occur for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

(a) A Borrower fails to pay (i) principal on any Revolver Loan when due (whether at stated maturity, on demand, upon acceleration or otherwise) or (ii) any interest, fees or other amounts due under this Agreement within three (3) Business Days of the date due;

(b) Any representation or warranty of an Obligor made in connection with any Loan Document or any certificate or instrument required to be furnished in connection with or pursuant to any Loan Document is incorrect or misleading in any material respect when given;

(c) A Borrower breaches or fail to perform any covenant contained in **Section 8.2.4, 8.2.5, 10.1.1, 10.1.3, 10.2 and 10.3**;

(d) An Obligor breaches or fails to (i) deliver a Borrowing Base Certificate required to be delivered pursuant to **Section 8.1** within three (3) Business Days of the date such Borrowing Base Certificate was required to be delivered, (ii) comply with **Section 7.6** and such failure is not cured within 10 Business Days or (iii) perform any other covenant contained in any Loan Documents, and such breach or failure is not cured within 30 days after a Senior Officer of such Obligor has knowledge thereof or receives written notice thereof from Agent, whichever is sooner;

(e) (i) A Guarantor repudiates, revokes or attempts to revoke its Guaranty; (ii) an Obligor denies in writing or contests the validity or enforceability of any Loan Documents; (iii) other than with respect to items of Collateral with a value not exceeding \$5,000,000 in the aggregate, any Lien granted to the Agent ceases to be a valid and perfected Lien (or the priority of such Lien ceases to be in full force and effect) (to the extent perfection is required hereunder or under any Loan Document), except to the extent that any such loss of validity, perfection or priority results from the failure of the Agent to maintain possession of Collateral requiring perfection through control or to file or record any document delivered to it for filing or recording; or (iv) any Loan Document ceases to be in full force or effect for any reason (other than in accordance with its terms or a waiver or release by Agent and Lenders);

(f) Any material breach or default of an Obligor occurs under (i) any Hedging Agreement or (ii) any instrument or agreement to which it is a party or by which it or any of its Properties is bound, in each case relating to any Debt (other than the Obligations) in excess of the Threshold Amount (including the documents related to a Permitted ABS Documents) and beyond the period of grace, if the maturity of or any payment with respect to such

Debt may be accelerated or demanded due to such breach, in each case (x) unless such Debt has been paid in full or the failure has been waived or otherwise cured prior to the acceleration of the Obligations under the Loan Documents, (y) with respect to such Debt consisting of obligation under Hedging Agreements, termination events or equivalent events relating to the breach by Parent, any Borrower or any Subsidiary of the terms thereof and (z) this clause (f) shall not apply to secured Debt that becomes due as a result of the voluntary sale, transfer of the property or assets subject to such Debt or as a result of an event not constituting a Change of Control under this Agreement and such Debt is paid when due or prior to acceleration of the Obligations;

(g) Any final judgment or order for the payment of money is entered against an Obligor in an amount that exceeds, individually or cumulatively with all such unsatisfied judgments or orders against all Obligors, the Threshold Amount (net of insurance coverage therefor that has not been denied by the insurer), and there is a period of 60 consecutive days during which (i) such judgment or order is not discharged, satisfied, vacated or bonded pending appeal or (ii) a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, is not in effect;

(h) A loss, theft, damage or destruction occurs with respect to any Collateral included in the Borrowing Base if the amount not covered by insurance exceeds the Threshold Amount;

(i) An Obligor suffers the loss, revocation or termination any material license or permit which is necessary for the continued operation of a material part of such Obligor's business for a material period of time which materially adversely affects the financial condition of the Obligors taken as a whole; an Obligor agrees to or commences any liquidation, dissolution or winding up of its affairs; or an Obligor is not Solvent;

(j) An Insolvency Proceeding is commenced by an Obligor; an Obligor makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor; or an Insolvency Proceeding is commenced against an Obligor and the Obligor consents to institution of the proceeding (it being understood that any involuntary Insolvency Proceeding, petition or appointment described in this clause (j) shall not constitute an Event of Default unless such proceeding, petition or appointment shall continue undismissed for 60 days or an order for relief is entered in the proceeding, petition or appointment);

(k) (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; (ii) an Obligor or ERISA Affiliate fails to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or (iii) any event similar to the foregoing occurs or exists with respect to a Foreign Plan, but, in each case in this clause (k) only if such occurrence or event would either individually or in the aggregate reasonably be expected to result in an Obligor or the Obligors incurring a liability which would have a Material Adverse Effect;

(l) An Obligor or any of its Senior Officers is criminally indicted or convicted for (i) a felony committed in the conduct of the Obligor's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any Collateral;

(m) A Change of Control occurs; or

(n) A Level Two Regulatory Event has occurred.

11.2 Remedies upon Default. If an Event of Default described in **Section 11.1(j)** occurs and is continuing with respect to any Borrower, then to the extent permitted by Applicable Law, all Obligations (other than Secured Bank Product Obligations) shall become automatically due and payable and all Revolver Commitments shall terminate, without any action by Agent or notice of any kind. In addition, or if any other Event of Default exists, Agent may in

its sole discretion (and shall upon written direction of Required Lenders) do any one or more of the following from time to time:

(a) declare any Obligations (other than Secured Bank Product Obligations) immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;

(b) terminate, reduce or condition any Revolver Commitment, adjust the Borrowing Base, CAI Borrowing Base, or CCI Borrowing Base;

(c) require Obligors to Cash Collateralize LC Obligations or other Obligations under the Loan Documents that are contingent or not yet due and payable, and, if Obligors fail promptly to deposit such Cash Collateral, Agent may (and shall upon the direction of Required Lenders) advance the required Cash Collateral as Revolver Loans (whether or not an Overadvance exists or is created thereby, or the conditions in **Section 6** are satisfied); and

(d) exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Borrowers to assemble Collateral, at Borrowers' expense, and make it available to Agent at a place designated by Agent; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by a Borrower, Borrowers agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, all as Agent, in its discretion, deems advisable. Each Borrower agrees that 10 days notice of any proposed sale or other disposition of Collateral by Agent shall be reasonable, and that any sale conducted on the internet or to a licensor of Intellectual Property shall be commercially reasonable so long as otherwise conducted in accordance with Applicable Law. Agent shall have the right to conduct such sales on any Obligor's premises, without charge, and any sale may be adjourned from time to time in accordance with Applicable Law. Agent shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Agent may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may credit bid and set off the amount of such price against the Obligations.

(e) So long as a Level Two Regulatory Event is continuing, Agent shall have the right to immediately substitute a third party acceptable to Agent as servicer or asset manager of Borrowers' respective or collective portfolios of Contracts, and upon and after such substitution, such replacement servicer shall be entitled to receive a commercially reasonable fee for such services; provided, that upon the cure of such Event of Default, Borrowers shall be reinstated as such servicer or asset manager as promptly as practicable.

11.3 License. Except as is prohibited by an existing and enforceable anti-assignment provision (other than to the extent that any such term would be rendered ineffective pursuant to the UCC or any other Applicable Law or principles of equity), Agent is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Borrowers, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral.

11.4 Setoff. At any time during the existence of an Event of Default, Agent, Issuing Bank, Lenders, and any of their Affiliates are authorized, 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) at any time held and other obligations (in whatever currency) at any time owing by Agent, Issuing Bank, such Lender or such Affiliate (other than, for the avoidance of doubt, Tax and Trust Funds) to or for the credit or the account of an Obligor against its Obligations, whether or not Agent, Issuing Bank, such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are

owed to a branch or office of Agent, Issuing Bank, such Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Agent, Issuing Bank, each Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have. Each Lender and the Issuing Bank agrees to promptly notify the Borrowers and the Agent after any such setoff and application.

11.5 Remedies Cumulative; No Waiver.

11.5.1 Cumulative Rights. All agreements, warranties, guaranties, indemnities and other undertakings of Obligors under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Agent and Lenders are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations under the Loan Documents.

11.5.2 Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Agent or any Lender to require strict performance by any Obligor under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Revolver Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Agent or any Lender of any payment or performance by an Obligor under any Loan Documents in a manner other than that specified therein. Except as provided in **Section 10.4**, any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

Section 12. AGENT

12.1 Appointment, Authority and Duties of Agent.

12.1.1 Appointment and Authority. Each Secured Party appoints and designates JPM as Agent under all Loan Documents. Agent may, and each Secured Party authorizes Agent to, enter into all Loan Documents to which Agent is intended to be a party and accept all Security Documents. Any action taken by Agent or Required Lenders in accordance with the provisions of the Loan Documents, and the exercise by Agent or Required Lenders of any rights or remedies set forth therein, together with all other powers reasonably incidental thereto, shall be authorized by and binding upon all Secured Parties. Without limiting the generality of the foregoing, Agent shall have the sole and exclusive authority to (a) act as the disbursing and collecting agent for Lenders with respect to all payments and collections arising in connection with the Loan Documents; (b) execute and deliver as Agent each Loan Document, including any intercreditor or subordination agreement ([including any intercreditor or subordination agreement in respect of the Existing HY Notes with the purchaser of \(or any trustee, agent or representative for the purchaser of\) any Third Party Contract](#)), and accept delivery of each Loan Document; (c) act as collateral agent for Secured Parties for purposes of perfecting and administering Liens under the Loan Documents, and for all other purposes stated therein; (d) manage, supervise or otherwise deal with Collateral; and (e) take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral or under any Loan Documents, Applicable Law or otherwise. Agent alone is authorized to determine eligibility and applicable advance rates under the Borrowing Base, whether to impose or release any reserve, or whether any conditions to funding or issuance of a Letter of Credit have been satisfied, which determinations and judgments, if exercised in good faith, shall exonerate Agent from liability to any Secured Party or other Person for any error in judgment. No Secured Party (other than Agent) shall have any right individually to take any Enforcement Action or otherwise exercise any rights or remedies with respect to any Collateral under the Loan Documents, Applicable Law or otherwise.

12.1.2 Duties. The title of “Agent” is used solely as a matter of market custom and the duties of Agent are administrative in nature only. Agent has no duties except those expressly set forth in the Loan Documents, and in no event does Agent have any agency, fiduciary or implied duty to or relationship with any Secured Party or other Person by reason of any Loan Document or related transaction. The conferral upon Agent of any right shall not imply a duty to exercise such right, unless instructed to do so by Lenders in accordance with this Agreement.

12.1.3 Agent Professionals. Agent may perform its duties through agents and employees. Agent may consult with and employ Agent Professionals, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by an Agent Professional. Agent shall not be responsible for the negligence or misconduct of any agents, employees or Agent Professionals selected by it with reasonable care.

12.1.4 Instructions of Required Lenders. The rights and remedies conferred upon Agent under the Loan Documents may be exercised without the necessity of joining any other party, unless required by Applicable Law. In determining compliance with a condition for any action hereunder, including satisfaction of any condition in **Section 6**, Agent may presume that the condition is satisfactory to a Secured Party unless Agent has received notice to the contrary from such Secured Party before Agent takes the action. Agent may request instructions from Required Lenders or other Secured Parties with respect to any act (including the failure to act) in connection with any Loan Documents or Collateral, and may seek assurances to its satisfaction from Secured Parties of their indemnification obligations against Claims that could be incurred by Agent. Agent may refrain from any act until it has received such instructions or assurances, and shall not incur liability to any Person by reason of so refraining. Instructions of Required Lenders shall be binding upon all Secured Parties, and no Secured Party shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting pursuant to instructions of Required Lenders. Notwithstanding the foregoing, instructions by and consent of specific parties shall be required to the extent provided in **Section 14.1.1**. In no event shall Agent be required to take any action that it determines in its discretion is contrary to Applicable Law or any Loan Documents or could subject any Agent Indemnitee to liability.

12.2 Agreements Regarding Collateral and Borrower Materials.

12.2.1 Lien Releases; Care of Collateral. Agent will release (and the Secured Parties authorize Agent to release) any Lien on any Collateral (a) upon Full Payment of the Obligations under the Loan Documents; (b) that is the subject of a disposition or Lien that Borrowers certify in writing is a Permitted Asset Disposition or a Permitted Lien entitled to priority over Agent's Liens (and Agent may rely conclusively on such certificate without further inquiry); (c) that does not constitute a material part of the Collateral (as agreed by Agent and Borrower); or (d) subject to **Section 14.1**, with the consent of Required Lenders. Secured Parties authorize Agent to subordinate its Liens to any Purchase Money Lien or other Lien entitled to priority hereunder. Agent has no obligation to assure that any Collateral exists or is owned by an Obligor, or is cared for, protected or insured, nor to assure that Agent's Liens have been properly created, perfected or enforced, or are entitled to any particular priority, nor to exercise any duty of care with respect to any Collateral.

12.2.2 Possession of Collateral. Agent and Secured Parties appoint each Secured Party as agent (for the benefit of Secured Parties) for the purpose of perfecting Liens in Collateral held or controlled by it, to the extent such Liens are perfected by possession or control. If a Secured Party obtains possession or control of any Collateral, it shall notify Agent thereof and, promptly upon Agent's request, deliver such Collateral to Agent or otherwise deal with it in accordance with Agent's instructions.

12.2.3 Reports. Agent shall promptly provide to Lenders, when complete, any field examination, audit or appraisal report prepared for Agent with respect to any Obligor or Collateral ("Report"). Reports and other Borrower Materials may be made available to Lenders by providing access to them on the Approved Electronic Platform, but Agent shall not be responsible for system failures or access issues that may occur from time to time. Each Lender agrees (a) that Reports are not intended to be comprehensive audits or examinations, and that Agent or any other Person performing an audit or examination will inspect only limited information and will rely significantly upon Borrowers' books, records and representations; (b) that Agent makes no representation or warranty as to the accuracy or completeness of any Borrower Materials and shall not be liable for any information contained in or omitted from any Borrower Materials, including any Report; and (c) to keep all Borrower Materials confidential and strictly for such Lender's internal use, not to distribute any Report or other Borrower Materials (or the contents thereof) to any Person (except to such Lender's Participants, attorneys and accountants in accordance with the requirements of **Section 13**), and to use all Borrower Materials solely for administration of the Obligations. Each Lender shall indemnify and hold harmless Agent and any other Person preparing a Report from any action such Lender may take as a result of or any

conclusion it may draw from any Borrower Materials, as well as from any Claims arising as a direct or indirect result of Agent furnishing same to such Lender, via the Approved Electronic Platform or otherwise.

12.3 Reliance By Agent. Agent shall be entitled to rely, and shall be fully protected in relying, upon any certification, notice or other communication (including those by telephone, telex, telegram, telecopy, e mail or other electronic means) believed by it to be genuine and correct and to have been signed, sent or made by the proper Person. Agent shall have a reasonable and practicable amount of time to act upon any instruction, notice or other communication under any Loan Document, and shall not be liable for any delay in acting.

12.4 Action Upon Default. Agent shall not be deemed to have knowledge of any Default or Event of Default, or of any failure to satisfy any conditions in **Section 6**, unless it has received written notice from a Borrower or Required Lenders specifying the occurrence and nature thereof. If a Lender acquires knowledge of a Default, Event of Default or failure of such conditions, it shall promptly notify Agent and the other Lenders thereof in writing. Each Secured Party agrees that, except as otherwise provided in any Loan Documents or with the written consent of Agent and Required Lenders, it will not take any Enforcement Action, accelerate Obligations (other than Secured Bank Product Obligations) or assert any rights relating to any Collateral.

12.5 Ratable Sharing. If any Lender obtains any payment or reduction of any Obligation, whether through set-off or otherwise, in excess of its ratable share of such Obligation, such Lender shall forthwith purchase from Secured Parties participations in the affected Obligation as are necessary to share the excess payment or reduction on a Pro Rata basis or in accordance with **Section 5.6.2**, as applicable. If any of such payment or reduction is thereafter recovered from the purchasing Lender, the purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest. Notwithstanding the foregoing, if a Defaulting Lender obtains a payment or reduction of any Obligation, it shall immediately turn over the full amount thereof to Agent for application under **Section 4.2.2** and it shall provide a written statement to Agent describing the Obligation affected by such payment or reduction. No Lender shall set off against a ~~Dominion~~ Deposit Account or Securities Account without Agent's prior consent.

12.6 Indemnification. EACH SECURED PARTY SHALL INDEMNIFY AND HOLD HARMLESS AGENT INDEMNITEES AND ISSUING BANK INDEMNITEES, TO THE EXTENT NOT REIMBURSED BY OBLIGORS, ON A PRO RATA BASIS, AGAINST ALL CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY SUCH INDEMNITEE, PROVIDED THAT ANY CLAIM AGAINST AN AGENT INDEMNITEE RELATES TO OR ARISES FROM ITS ACTING AS OR FOR AGENT (IN THE CAPACITY OF AGENT). In Agent's discretion, it may reserve for any Claims made against an Agent Indemnatee or Issuing Bank Indemnatee, and may satisfy any judgment, order or settlement relating thereto, from proceeds of Collateral prior to making any distribution of Collateral proceeds to Secured Parties. If Agent is sued by any receiver, trustee or other Person for any alleged preference or fraudulent transfer, then any monies paid by Agent in settlement or satisfaction of such proceeding, together with all interest, costs and expenses (including attorneys' fees) incurred in the defense of same, shall be promptly reimbursed to Agent by each Secured Party to the extent of its Pro Rata share.

12.7 Limitation on Responsibilities of Agent. Agent shall not be liable to any Secured Party for any action taken or omitted to be taken under the Loan Documents, except for losses directly and solely caused by Agent's gross negligence or willful misconduct. Agent does not assume any responsibility for any failure or delay in performance or any breach by any Obligor, Lender or other Secured Party of any obligations under the Loan Documents. Agent does not make any express or implied representation, warranty or guarantee to Secured Parties with respect to any Obligations, Collateral, Liens, Loan Documents or Obligor. No Agent Indemnatee shall be responsible to Secured Parties for any recitals, statements, information, representations or warranties contained in any Loan Documents or Borrower Materials; the execution, validity, genuineness, effectiveness or enforceability of any Loan Documents; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Obligations; or the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any Obligor or Contract Debtor. No Agent Indemnatee shall have any obligation to any Secured Party to ascertain or inquire into the existence of any Default or Event of Default, the observance by any Obligor of any terms of the Loan Documents, or the satisfaction of any conditions precedent contained in any Loan Documents.

12.8 Successor Agent and Co-Agents.

12.8.1 **Resignation; Successor Agent.** Agent may resign at any time by giving at least 30 days written notice thereof to Lenders and Borrowers. If Agent is a Defaulting Lender, Borrower Agent or the Required Lenders may, if permitted by Applicable Law, remove such Agent by written notice to Borrowers and Agent. Required Lenders may appoint a successor to replace the resigning or removed Agent that is (a) a Lender or Affiliate of a Lender; or (b) a financial institution reasonably acceptable to Required Lenders and (provided no Event of Default exists pursuant to **Section 11.1(a) or (j)**) Borrowers. If no successor is appointed by the effective date of Agent's resignation or removal, then on such date, Agent may appoint a successor acceptable to it in its discretion and the Borrowers (provided no Event of Default exists pursuant to **Section 11.1(a) or (j)**) (which shall be a Lender unless no Lender accepts the role) or in the absence of such appointment, Required Lenders automatically assume all rights and duties of Agent, the successor Agent shall thereupon succeed to and become vested with all the powers and duties of the retiring Agent without further act. The retiring or removed Agent shall be discharged from its duties hereunder on the effective date of its resignation or removal, but shall continue to have all rights and protections available to Agent under the Loan Documents with respect to actions, omissions, circumstances or Claims relating to or arising while it was acting or transferring responsibilities as Agent or holding any Collateral on behalf of Secured Parties, including the indemnification set forth in **Sections 12.6 and 14.2**, and all rights and protections under this **Section 12**. Any successor to JPM by merger or acquisition of stock or this loan shall continue to be Agent hereunder without further act on the part of any Secured Party or Obligor.

12.8.2 **Co-Collateral Agent.** If allowed under Applicable Law, Agent may appoint, subject to the approval of Borrower (such approval not to be unreasonably withheld or delayed) a Person to serve as a co-collateral agent or separate collateral agent under any Loan Document. Each right, remedy and protection intended to be available to Agent under the Loan Documents shall also be vested in such separate agent. Secured Parties shall execute and deliver any instrument or agreement that Agent may request to effect such appointment. If any such agent shall die, dissolve, become incapable of acting, resign or be removed, then all the rights and remedies of such agent, to the extent permitted by Applicable Law, shall vest in and be exercised by Agent until appointment of a new agent.

12.9 Due Diligence and Non-Reliance. Each Lender acknowledges and agrees that it has, independently and without reliance upon Agent or any other Lenders, and based upon such documents, information and analyses as it has deemed appropriate, made its own credit analysis of each Obligor and its own decision to enter into this Agreement and to fund Revolver Loans and participate in LC Obligations hereunder. Each Secured Party has made such inquiries as it feels necessary concerning the Loan Documents, Collateral and Obligors. Each Secured Party acknowledges and agrees that the other Secured Parties have made no representations or warranties concerning any Obligor, any Collateral or the legality, validity, sufficiency or enforceability of any Loan Documents or Obligations. Each Secured Party will, independently and without reliance upon any other Secured Party, and based upon such financial statements, documents and information as it deems appropriate at the time, continue to make and rely upon its own credit decisions in making Revolver Loans and participating in LC Obligations, and in taking or refraining from any action under any Loan Documents. Except for notices, reports and other information expressly requested by a Lender, Agent shall have no duty or responsibility to provide any Secured Party with any notices, reports or certificates furnished to Agent by any Obligor or any credit or other information concerning the affairs, financial condition, business or Properties of any Obligor (or any of its Affiliates) which may come into possession of Agent or its Affiliates.

12.10 Remittance of Payments and Collections.

12.10.1 **Remittances Generally.** Payments by any Secured Party to Agent shall be made by the time and date provided herein, in immediately available funds. If no time for payment is specified or if payment is due on demand by Agent and request for payment is made by Agent by 12:00 noon, on a Business Day, then payment shall be made by the Secured Party by 2:00 p.m., on such day, and if request is made after 12:00 noon, then payment shall be made by 12:00 noon, on the next Business Day. Payment by Agent to any Secured Party shall be made by wire transfer, in the type of funds received by Agent. Any such payment shall be subject to Agent's right of offset for any amounts due from such payee under the Loan Documents.

12.10.2 **Failure to Pay.** If any Secured Party fails to deliver when due any amount payable by it to Agent hereunder, such amount shall bear interest, from the due date until paid in full, at the greater of the Federal Funds Effective Rate or the rate determined by Agent as customary for interbank compensation for two Business Days and thereafter at the Default Rate for Base Rate Revolver Loans. In no event shall Borrowers be entitled to credit for any interest paid by a Secured Party to Agent, nor shall a Defaulting Lender be entitled to interest on amounts held by Agent pursuant to **Section 4.2**.

12.10.3 **Recovery of Payments.** If Agent pays an amount to a Secured Party in the expectation that a related payment will be received by Agent from an Obligor and such related payment is not received, then Agent may recover such amount from the Secured Party. If Agent determines that an amount received by it must be returned or paid to an Obligor or other Person pursuant to Applicable Law or otherwise, then, notwithstanding any other term of any Loan Document, Agent shall not be required to distribute such amount to any Secured Party. If Agent is required to return any amounts applied by it to Obligations held by a Secured Party, such Secured Party shall pay to Agent, on demand, its share of the amounts required to be returned.

12.11 Individual Capacities. As a Lender, JPM shall have the same rights and remedies under the Loan Documents as any other Lender, and the terms “Lenders,” “Required Lenders” or any similar term shall include JPM in its capacity as a Lender. Agent, Lenders and their Affiliates may accept deposits from, lend money to, provide Bank Products to, act as financial or other advisor to, and generally engage in any kind of business with, Obligors and their Affiliates, as if they were not Agent or Lenders hereunder, without any duty to account therefor to any Secured Party. In their individual capacities, Agent, Lenders and their Affiliates may receive information regarding Obligors, their Affiliates and their Contract Debtors (including information subject to confidentiality obligations), and shall have no obligation to provide such information to any Secured Party.

12.12 Titles. Each Lender, other than JPM, that is designated in connection with this credit facility as an “Arranger,” “Bookrunner” or “Agent” of any kind shall have no right or duty under any Loan Documents other than those applicable to all Lenders, and shall in no event have any fiduciary duty to any Secured Party.

12.13 Bank Product Providers. Each Secured Bank Product Provider, by delivery of a notice to Agent of a Bank Product, agrees to be bound by the Loan Documents, including **Sections 5.6, 12, 14.3.3 and 14.16**, and agrees to hold harmless Agent Indemnitees, to the extent not reimbursed by Obligors, against all Claims that may be incurred by or asserted against any Agent Indemnitee in connection with such provider’s Secured Bank Product Obligations.

12.14 No Third Party Beneficiaries. This **Section 12** is an agreement solely among Secured Parties and Agent, and shall survive Full Payment of the Obligations under the Loan Documents. Other than with respect to **Sections 12.1, 12.2, 12.4 and 12.8**, this **Section 12** does not confer any rights or benefits upon Borrowers or any other Person. As between Borrowers and Agent, any action that Agent may take under any Loan Documents or with respect to any Obligations shall be conclusively presumed to have been authorized and directed by Secured Parties.

12.15 Lender Representations and Warranties.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) 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 Agent and the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Obligor, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Revolver Loans, the Letters of Credit or the Revolver Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE

91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver 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 Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver 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 Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) 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 Agent and the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Obligor, that:

(i) none of the Agent or the Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other ~~person~~ Person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Agent or the Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Revolver Loans, the Letters of Credit, the Revolver Commitments or this Agreement.

(c) The Agent and the Arranger hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Revolver Loans, the Letters of Credit, the Revolver Commitments and this Agreement, (ii) may recognize a gain if it extended the Revolver Loans, the Letters of Credit or the Revolver Commitments for an amount less than the amount being paid for an interest in the Revolver Loans, the Letters of Credit or the Revolver Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Revolver Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, Agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

Section 13. BENEFIT OF AGREEMENT; ASSIGNMENTS

13.1 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of Borrowers, Agent, Lenders, Secured Parties and their respective successors and permitted assigns, except that (a) no Borrower shall have the right to assign its rights or delegate its obligations under any Loan Documents other than as set forth in **Sections 10.2.6** and **10.2.9**; and (b) any assignment by a Lender must be made in compliance with **Section 13.3**. Agent may treat the Person which made any Revolver Loan or Swingline Loan as the owner thereof for all purposes until such Person makes an assignment in accordance with **Section 13.3**. Any authorization or consent of a Lender shall be conclusive and binding on any subsequent transferee or assignee of such Lender.

13.2 **Participations.**

13.2.1 **Permitted Participants; Effect.** Subject to **Section 13.3.3**, any Lender may sell to a financial institution ("Participant") a participating interest in the rights and obligations of such Lender under any Loan Documents. Despite any sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, it shall remain solely responsible to the other parties hereto for performance of such obligations, it shall remain the holder of its Revolver Loans and Revolver Commitments for all purposes, all amounts payable by Borrowers shall be determined as if it had not sold such participating interests, and Borrowers and Agent shall continue to deal solely and directly with such Lender in connection with the Loan Documents. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents. Each Lender shall be solely responsible for notifying its Participants of any matters under the Loan Documents, and Agent and the other Lenders shall not have any obligation or liability to any such Participant. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of **Section 5.9** unless Borrowers agree otherwise in writing.

13.2.2 **Voting Rights.** Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, waiver or other modification of a Loan Document other than that which forgives principal, interest or fees, reduces the stated interest rate or fees payable with respect to any Revolver Loan or Revolver Commitment in which such Participant has an interest, postpones the Revolver Commitment Termination Date or any date fixed for any regularly scheduled payment of principal, interest or fees on such Revolver Loan or Revolver Commitment, or releases any Borrower, Guarantor or substantially all of the Collateral.

13.2.3 **Participant Register.** Each Lender that sells a participation shall, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), maintain a register in which it enters the Participant's name, address and interest in Revolver Commitments, Revolver Loans (and stated interest) and LC Obligations. Entries in the register shall be conclusive, absent manifest error, and such Lender shall treat each Person recorded in the register as the owner of the participation for all purposes, notwithstanding any notice to the contrary. No Lender shall have an obligation to disclose any information in such register except to the extent necessary to establish that a Participant's interest is in registered form under the Code.

13.2.4 Benefit of Setoff. Each Participant shall have a right of set-off pursuant to **Section 11.4** in respect of its participating interest to the same extent as if such interest were owing directly to a Lender, and each Lender shall also retain the right of set-off pursuant to **Section 11.4** with respect to any participating interests sold by it. By exercising any right of set-off, a Participant agrees to share with Lenders all amounts received through its set-off, in accordance with **Section 12.5** as if such Participant were a Lender.

13.2.5 Increased Costs/Break Funding/Taxes. A Participant shall not be entitled to receive any greater payment under **Section 3.7, 3.9, 5.9 or 5.10** than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with Borrower's prior written consent expressly acknowledging such Participant may receive a greater benefit. A Participant shall not be entitled to the benefits of **Section 5.9 and 5.10** to the extent such Participant fails to comply with **Section 5.10.1** as though it were a Lender.

13.3 Assignments.

13.3.1 Permitted Assignments. A Lender may assign to an Eligible Assignee any of its rights and obligations under the Loan Documents, as long as (a) each assignment is of a constant, and not a varying, percentage of the transferor Lender's rights and obligations under the Loan Documents and, in the case of a partial assignment, is in a minimum principal amount of \$10,000,000 (unless otherwise agreed by Agent and the Borrower Agent, each in their discretion) and integral multiples of \$1,000,000 in excess of that amount; (b) except in the case of an assignment in whole of a Lender's rights and obligations, the aggregate amount of the Revolver Commitments retained by the transferor Lender is at least \$10,000,000 (unless otherwise agreed by Agent in its discretion); and (c) the parties to each such assignment shall execute and deliver to Agent an Assignment and Acceptance for acceptance and recording. Nothing herein shall limit the right of a Lender to pledge or assign any rights under the Loan Documents to secure obligations of such Lender to pledge or assign any rights under this Agreement to (i) any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors and any Operating Circular issued by such Federal Reserve Bank or (ii) counterparties to swap agreements relating to any Revolver Loans; provided, that (x) no such pledge or assignment shall release the Lender from its obligations hereunder nor substitute the pledge or assignee for such Lender as a party hereto and (y) any payment by the Borrowers to the assigning Lender in respect of any Obligations assigned as described in this sentence shall satisfy the Borrowers' obligations hereunder to the extent of such payment, and no such assignment shall release the assigning Lender from its obligations hereunder.

13.3.2 Effect; Effective Date. Upon delivery to Agent of an assignment notice in the form of Exhibit C and a processing fee of \$3,500 (unless otherwise agreed by Agent in its discretion), the assignment shall become effective as specified in the notice, if it complies with this **Section 13.3**. From such effective date, (i) the Eligible Assignee shall for all purposes be a Lender under the Loan Documents, and shall have all rights and obligations of a Lender thereunder and (ii) the assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (other than any rights it may have pursuant to **Section 14.2** which will survive) and be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto). Upon consummation of an assignment, the transferor Lender, Agent and Borrowers shall make appropriate arrangements for issuance of replacement and/or new notes, if applicable. The transferee Lender shall comply with **Section 5.10** and deliver, upon request, an Administrative Questionnaire satisfactory to Agent.

13.3.3 Certain Assignees. No assignment or participation may be made to a Borrower, Affiliate of a Borrower, Defaulting Lender or natural person. Agent shall have no obligation to determine whether any assignment is permitted under the Loan Documents. Any assignment by a Defaulting Lender must be accompanied by satisfaction of its outstanding obligations under the Loan Documents in a manner satisfactory to Agent and Borrower Agent, including payment by the Defaulting Lender or Eligible Assignee of an amount sufficient upon distribution (through direct payment, purchases of participations or other methods acceptable to Agent in its discretion) to satisfy all funding and payment liabilities of the Defaulting Lender. If any assignment by a Defaulting Lender (by operation of law or

otherwise) does not comply with the foregoing, the assignee shall be deemed a Defaulting Lender for all purposes until compliance occurs.

13.3.4 Register. Agent, acting as a non-fiduciary agent of Borrowers (solely for tax purposes), shall maintain (a) a copy (or electronic equivalent) of each Assignment and Acceptance delivered to it, and (b) a register for recordation of the names, addresses and Revolver Commitments of, and the Revolver Loans, stated interest and LC Obligations owing to, each Lender. Entries in the register shall be conclusive, absent manifest error, and Borrowers, Agent and Lenders shall treat each Person recorded in such register as a Lender for all purposes under the Loan Documents, notwithstanding any notice to the contrary. Agent may choose to show only one Borrower as the borrower in the register, without any effect on the liability of any Obligor with respect to the Obligations. The register shall be available for inspection by Borrowers or any Lender, from time to time upon reasonable notice.

13.4 Replacement of Certain Lenders. If a Lender (a) is a Non-Consenting Lender, (b) is a Defaulting Lender, or (c) gave a notice under **Section 3.5** or requested payment or compensation under **Section 3.7** or **5.9** (and has not designated a different Lending Office pursuant to **Section 3.8**), then Agent or Borrower Agent may, upon notice to such Lender and Agent, require it to assign its rights and obligations under the Loan Documents to Eligible Assignee(s), pursuant to appropriate Assignment and Acceptance(s). Agent is irrevocably appointed as attorney-in-fact to execute any such Assignment and Acceptance if the Lender fails to execute it. Such Lender shall be entitled to receive, in cash, concurrently with such assignment, all amounts owed to it under the Loan Documents through the date of assignment.

13.5 Assignments/Participations with Respect to Securities Laws. Each Lender agrees that, without the prior written consent of Borrower Agent and Agent, it will not make any assignment or sell a participation hereunder in any manner or under any circumstances that would require registration or qualification of, or filings in respect of, any Revolver Loan or other Obligation under the securities laws of the United States of America or of any jurisdiction.

Section 14. MISCELLANEOUS

14.1 Consents, Amendments and Waivers.

14.1.1 Amendment. Subject to clause (ii) of the proviso to **Section 1.2** and **Section 2.2** and **3.6(b)**, no modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Agent (with the consent of Required Lenders) and each Obligor party to such Loan Document; provided, that:

(a) without the prior written consent of Agent, no modification shall alter any provision in a Loan Document that relates to any rights, duties or discretion of Agent;

(b) without the prior written consent of each affected Issuing Bank, no modification shall alter **Section 2.3** or any other provision in a Loan Document that relates to Letters of Credit or any rights, duties or discretion of such Issuing Bank;

(c) without the prior written consent of each Lender directly and adversely affected thereby, including a Defaulting Lender, no modification shall (i) increase the Revolver Commitment of such Lender; (ii) reduce the amount of, or waive or delay payment of, any principal, interest or fees payable to such Lender (except as provided in **Section 4.2**); (iii) extend the Revolver Termination Date applicable to such Lender's Obligations; (iv) amend this clause (c) or (v) alter **Section 5.6.2**; provided that for purposes of this clause (c), it being understood that (A) waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the aggregate Revolver Commitments shall not constitute an increase of the Revolver Commitments of any Lender; (B) a waiver or reduction of the Default Rate (or other post-petition increase in interest) shall be effective with the consent of the Required Lenders (and shall not require the consent of each directly and adversely affected Lender or any Defaulting Lender); and (C) any modification to the Leverage Ratio or the component definitions thereof shall not constitute a reduction in the rate of interest or a reduction of fees);

(d) without the prior written consent of all Lenders (except any Defaulting Lender), no modification shall (i) alter this **Section 14.1.1**; (ii) release all or substantially all Collateral; or (iii) amend the definition of Pro Rata, Required Lenders or Supermajority Lenders; or (iv) except in connection with a merger, disposition or similar transaction expressly permitted hereby, including pursuant to **Section 10.2.6** and **10.2.9**, release any Obligor from liability for any Obligations;

(e) if Real Estate secured any Obligations, no modification of a Loan Document shall add, increase, renew or extend any credit line hereunder until the completion of flood diligence and documentation as required by all Flood Laws or as otherwise satisfactory to Agent; and

(f) without the prior written consent of Supermajority Lenders, amend the definition of Borrowing Base (or any defined term used in such definition) if the effect of such amendment is to increase borrowing availability.

Notwithstanding anything contained herein (including, without limitation, this **Section 14.1.1**) or any other Loan Document to the contrary, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Agent and the Borrowers (a) to add one or more additional credit facilities or refinancing facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolver Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and other definitions related to such new credit facilities.

14.1.2 **Limitations.** The agreement of Borrowers shall not be required for any modification of a Loan Document that deals solely with the rights and duties of Lenders, Agent and/or Issuing Bank as among themselves. Only the consent of the parties to any agreement relating to fees or a Bank Product shall be required for modification of such agreement, and no Bank Product provider (in such capacity) shall have any right to consent to modification of any Loan Document other than its Bank Product agreement. Any waiver or consent granted by Agent or Lenders hereunder shall be effective only if in writing and only for the matter specified.

14.1.3 **Payment for Consents.** No Borrower will, directly or indirectly, pay any remuneration or other thing of value, whether by way of additional interest, fee or otherwise, to any Lender (in its capacity as a Lender hereunder) as consideration for agreement by such Lender with any modification of any Loan Documents, unless such remuneration or value is concurrently paid, on the same terms, on a Pro Rata basis to all Lenders providing their consent.

14.1.4 **Errors.** If Agent and the Borrowers shall have jointly identified an obvious error or any error or omission of a technical nature in the Loan Documents, then Agent and the Borrowers shall be permitted to amend such provision without any further action or consent of any other party to such Loan Document if the same is not objected to in writing by the Required Lenders to the Agent within five business days following receipt of notice thereof.

14.2 Indemnity. EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY ANY OBLIGOR OR OTHER PERSON OR ARISING FROM THE NEGLIGENCE (OTHER THAN GROSS NEGLIGENCE AS SET FORTH BELOW) OF AN INDEMNITEE. In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless any Indemnatee with respect to a Claim that (i) is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from (x) the gross negligence, bad faith or willful misconduct of such Indemnatee or its Related Parties, or (y) material breach by such Indemnatee or its Related Parties of their obligations hereunder or under the Loan Documents or (ii) is brought by such Indemnatee against another Indemnatee (other than any claim, litigation, investigation or proceeding brought by or against Agent, acting in its capacity as Agent) that does not involve any act or omission of any Obligor and arises out of disputes among the Lenders and/or their transferees.

14.3 Notices and Communications.

14.3.1 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone or Electronic Systems (and subject in each case 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 facsimile, as follows:

- (i) if to any Obligor, to Borrower Agent at:
2445 Technology Forest Blvd.
Building 4, Suite 800
The Woodlands, TX 77381
Attention: Office of General Counsel

- (ii) if to Agent, JPM in its capacity as an Issuing Bank or the Swingline Lender, to JPMorgan Chase Bank, N.A. at:
2200 Ross Avenue, 9th Floor
Dallas, TX 75201
Attention: Jon Eckhouse
Facsimile No: 214 965 2594

- (iii) if to any other Lender or Issuing Bank, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, (B) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day of the recipient, or (C) delivered through Electronic Systems or Approved Electronic Platforms, as applicable, to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Each of Agent and Borrower Agent (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by Electronic Systems or Approved Electronic Platforms, as applicable, pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless Agent otherwise proscribes, all such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, e-mail or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day of the recipient.

(c) Any party hereto may change its address, facsimile number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(d) Notwithstanding the foregoing, no notice to Agent pursuant to **Section 2.3, 3.1.2 or 4.1.1** shall be effective until actually received by the individual to whose attention at Agent such notice is required to be sent. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

14.3.2 [Reserved.]

14.3.3 Posting of Communications.

(a) Borrowers agree that Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Bank by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic system chosen by Agent to be its electronic transmission system (the “Approved Electronic Platform”). In the event the Borrowers and Agent agree to use an Approved Electronic Platform, notwithstanding anything in this Agreement to the contrary, delivery to Agent for posting to the Approved Electronic Platform of any Borrower Materials, Reports or other notice, certificate or document required pursuant to this Agreement shall constitute delivery in accordance with the terms of this Agreement.

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by Agent from time to time (including, as of the Closing Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, the Issuing Bank and each Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution except, in each case, for any losses, claims, damages liabilities or expenses with respect to the foregoing if resulting from the gross negligence, bad faith or willful misconduct of Agent. Each of the Lenders, the Issuing Bank and each Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL AGENT, ANY ARRANGER, ANY DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “APPLICABLE PARTIES”) HAVE ANY LIABILITY TO ANY OBLIGOR, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY OBLIGOR’S OR AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM (OTHER THAN SUCH LOSSES, CLAIMS, DAMAGES, LIABILITIES OR EXPENSES RESULTING FROM THE GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT OF ANY APPLICABLE PARTY).

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Obligor pursuant to any Loan Document or the transactions contemplated therein which is distributed by Agent, any Lender or Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender and Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, Issuing Bank and each Borrower agrees that Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of Agent, any Lender, Issuing Bank, any Borrower or Guarantor to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

14.3.4 **Public Information.** Obligors and Secured Parties acknowledge that "public" information may not be segregated from material non-public information on the Approved Electronic Platform. Secured Parties acknowledge that Borrower Materials may include Obligors' material non-public information, and should not be made available to personnel who do not wish to receive such information or may be engaged in investment or other market-related activities with respect to an Obligor's securities.

14.3.5 **Non-Conforming Communications.** Agent and Lenders may rely upon any communications purportedly given by or on behalf of any Borrower even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Borrower shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of a Borrower; provided that such indemnity shall not, as to any such Indemnitee, be available to the extent that such liabilities, losses, costs or expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

14.4 **[Reserved.]**

14.5 **Credit Inquiries.** Agent and Lenders may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Obligor of Subsidiary.

14.6 **Severability.** Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

14.7 **Cumulative Effect; Conflict of Terms.** The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations, tests or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

14.8 **Counterparts; Execution.** Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Agent has received counterparts bearing the signatures of all parties hereto. Agent may (but shall have no obligation to) accept any signature, contract formation or record-keeping through electronic means, which shall have the same legal validity and enforceability as manual or paper-based methods, to the fullest extent permitted by Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any similar state law based on the Uniform Electronic Transactions Act. Upon request by Agent, any electronic signature or delivery shall be promptly followed by a manually executed or paper document.

14.9 **Entire Agreement.** Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

14.10 Relationship with Lenders. The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or Revolver Commitments of any other Lender. Amounts payable hereunder to each Lender shall be a separate and independent debt. It shall not be necessary for Agent or any other Lender to be joined as an additional party in any proceeding for such purposes. Nothing in this Agreement and no action of Agent, Lenders or any other Secured Party pursuant to the Loan Documents or otherwise shall be deemed to constitute Agent and any Secured Party to be a partnership, joint venture or similar arrangement, nor to constitute control of any Obligor.

14.11 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated by any Loan Document, Borrowers acknowledge and agree that (a)(i) this credit facility and any arranging or other services by Agent, any Lender, any of their Affiliates or any arranger are arm's-length commercial transactions between Borrowers and their Affiliates, on one hand, and Agent, any Lender, any of their Affiliates or any arranger, on the other hand; (ii) Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Agent, Lenders, their Affiliates and any arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrowers, their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Agent, Lenders, their Affiliates and any arranger may be engaged in a broad range of transactions that involve interests that differ from those of Borrowers and their Affiliates, and have no obligation to disclose any of such interests to Borrowers or their Affiliates. To the fullest extent permitted by Applicable Law, each Borrower hereby waives and releases any claims that it may have against Agent, Lenders, their Affiliates and any arranger with respect to any breach of agency or fiduciary duty in connection with any transaction contemplated by a Loan Document.

14.12 Confidentiality. Each of Agent, Lenders and Issuing Bank shall maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Affiliates, and to its and their partners, directors, officers, employees, agents, auditors, advisors and representatives (provided they are informed of the confidential nature of the Information and instructed to keep it confidential); (b) to the extent requested by any governmental, regulatory or self-regulatory authority purporting to have jurisdiction over it or its Affiliates; provided that unless specifically prohibited by Applicable Law or it is not practicable to do so prior to the required disclosure, each of Agent and each Lender shall endeavor to notify Borrower Agent (without any liability for a failure to so notify Borrower Agent) of any request made to such Lender or Agent prior to disclosure of such Information; (c) to the extent required by Applicable Law or by any subpoena or other legal process; (d) to any other party hereto; (e) in connection with any action or proceeding relating to any Loan Documents or Obligations; (f) subject to an agreement containing provisions substantially the same as this Section, to any Transferee or Eligible Assignee or any actual or prospective party (or its advisors) to any Bank Product or to any swap, derivative or other transaction under which payments are to be made by reference to an Obligor or Obligor's obligations; (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Agent, any Lender, Issuing Bank or any of their Affiliates on a nonconfidential basis from a source other than Borrowers; (h) on a confidential basis to a provider of an Approved Electronic Platform; or (i) with the consent of Borrower Agent. Notwithstanding the foregoing, Agent and Lenders may publish or disseminate general information concerning this credit facility for league table, tombstone and advertising purposes, and may use Borrowers' logos, trademarks or product photographs in advertising materials. As used herein, "Information" means information received from or on behalf of an Obligor or Subsidiary relating to it or its business, including any information obtained by Agent, any Secured Party, any Indemnatee and their respective Affiliates and its and their respective directors, officers, employees, agents, advisors and attorneys in connection with any inspection, audit, appraisal or review of properties, assets, books and records of Parent and/or its Subsidiaries and/or discussions with Parent's independent accountants. A Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises a degree of care similar to that accorded its own confidential information. Each of Agent, Lenders and Issuing Bank acknowledges that (i) Information may include material non-public information; (ii) it has developed compliance procedures regarding the use of such information; and (iii) it will handle the material non-public information in accordance with Applicable Law.

14.13 Intentionally Omitted.

14.14 **GOVERNING LAW.** UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

14.15 **Consent to Forum; Bail-In of EEA Financial Institutions.**

14.15.1 **Forum.** EACH BORROWER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITTING IN THE BOROUGH OF MANHATTAN OR THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN **SECTION 14.3.1**. A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by Applicable Law.

14.15.2 **Other Jurisdictions.** Nothing herein shall limit the right of Agent or any Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Agent of any judgment or order obtained in any forum or jurisdiction.

14.15.3 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties, each party hereto (including each Secured Party) acknowledges that, with respect to any Secured Party that is an EEA Financial Institution, any unsecured liability of such Secured Party arising under a Loan Document may be subject to the write-down and conversion powers of an EEA Resolution Authority, and each party hereto agrees and consents to, and acknowledges and agrees to be bound by, (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liability which may be payable to it by such Secured Party; and (b) the effects of any Bail-in Action on any such liability, including (i) a reduction in full or in part or cancellation of any such liability; (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent, or a bridge institution that may be issued to the party 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 any Loan Document; or (iii) the variation of the terms of such liability in connection with the exercise of any Write-Down and Conversion Powers.

14.15.4 **Reserved.**

14.16 **Waivers by Borrowers.** To the fullest extent permitted by Applicable Law, each Borrower waives (a) the right to trial by jury (which Agent, Issuing Bank, Lenders and all other Secured Parties hereby also waive) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Agent on which a Borrower may in any way be liable, and hereby ratifies anything Agent may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Agent to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against an Indemnitor, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Borrower acknowledges that the foregoing waivers are a material inducement to Agent, Issuing Bank and Lenders

entering into this Agreement and that they are relying upon the foregoing in their dealings with Borrowers. Each Borrower has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

14.17 Patriot Act Notice. Agent and Lenders hereby notify Borrowers that pursuant to the Patriot Act, Agent and Lenders are required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow Agent and Lenders to identify it in accordance with the Patriot Act. Agent and Lenders will also require information regarding any personal guarantor, and may require information regarding Borrowers' management and owners, such as legal name, address, social security number and date of birth. The Borrowers shall, promptly upon request, provide all documentation and other information as Agent, Issuing Bank or any Lender may request from time to time in order to comply with any obligations under any "know your customer," anti-money laundering or other requirements of Applicable Law.

14.18 NO ORAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

14.19 Existing Loan Agreement, No Novation. This Agreement does not extinguish the obligations for the payment of money outstanding under the Existing Loan Agreement or discharge or release the obligations or the liens or priority of any mortgage, pledge, security agreement or any other security therefor. Nothing herein contained shall be construed as a substitution or novation of the obligations outstanding under the Existing Loan Agreement or instruments 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 shall be construed as a release or other discharge of any Borrower from any of its obligations or liabilities under the Existing Loan Agreement or any of the security agreements, pledge agreements, mortgages, or other loan documents executed in connection therewith. Each Borrower hereby (a) confirms and agrees that each Loan Document to which it or its predecessor in interest is a party or to which it is a successor by operation of law is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that on and after the Closing Date all references in any such Loan Document to "the Loan Agreement", "thereto", "thereof", "thereunder" or words of like import referring to the Existing Loan Agreement shall mean the Existing Loan Agreement as amended and restated by this Agreement; and (b) confirms and agrees that to the extent that any such Loan Document purports to assign or pledge to Agent, for the benefit of the Lenders, or to grant to Agent, for the benefit of the Lenders a security interest in or lien on, any collateral as security for the Obligations of Borrowers from time to time existing in respect of the Existing Loan Agreement, such pledge, assignment or grant of the security interest or lien is hereby ratified and confirmed in all respects.

14.20 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Hedging Agreement or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC

Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 14.20, the following terms have the following meanings:

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

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

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

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

[Remainder of page intentionally left blank; signatures begin on following page]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

PARENT:

CONN'S, INC., a Delaware corporation

By: _____

Name:

Title:

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

BORROWERS:

CONN APPLIANCES, INC.,

a Texas corporation

By: _____

Name:

Title:

CONN CREDIT I, LP,

a Texas limited partnership

By: CAI HOLDING, LLC

a Delaware limited liability company,

its General Partner

By: CONN APPLIANCES, INC.

a Texas corporation,

its Sole Member

By: _____

Name:

Title:

CONN CREDIT CORPORATION, INC.,

a Texas corporation

By: _____

Name:

Title:

Address:

2445 Technology Forest Blvd.

Building 4, Suite 800

The Woodlands, TX 77381

Attention: Office of General Counsel

[\[SIGNATURE PAGE\]](#)

AGENT AND LENDERS:

JPMORGAN CHASE BANK, N.A.,

as Agent and a Lender

By: _____

Name:

Title:

[LENDER],

as a Lender

By: _____

Name:

Title:

as a Lender

By: _____

Name:

Title:

[SIGNATURE PAGE]

MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES

This Master Services Agreement for Professional Services (the “MSA”) by and between Conn Appliances, Inc., with offices at 2445 Technology Forest Blvd., The Woodlands, TX 77381 (hereinafter individually referred to as the “Company”) and Woodlands Financial Advisory LLC at 283 N Silvershire Cir, The Woodlands, TX 77381 (hereinafter referred to as “Consultant” and, together with the Company, the “Parties”) is made and entered into on April 14, 2020, and effective as of April 1, 2020 (the “Effective Date”).

WHEREAS, Company desires to procure from Consultant, and Consultant desires to provide to Company, the services (the “Deliverables” or “Services”) described in this MSA and in the task order attached hereto as Exhibit A (and any other similar task orders entered into by the Parties from time to time under this MSA), on the terms and conditions specified herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Company and Consultant hereby agree as follows:

1. SERVICES AND SCOPE OF WORK

1.1 Services. Consultant agrees to perform for the Company the Services described in this MSA and in the task order attached hereto as Exhibit A and any other similar task orders that the Parties may agree to from time to time (each, individually, a “Task Order”). The Services shall be provided in accordance with the provisions of this MSA and the applicable Task Order.

1.2 Provision of Services. All of the Services shall be provided by Consultant and Consultant shall not delegate, assign or subcontract the performance of any of the Services.

2. INDEPENDENT CONSULTANT AND SUBCONTRACTING

Consultant is performing the Services as an independent contractor. Consultant is not an agent of the Company and thus has no right or authority, express or implied, to represent or legally bind the Company as to any matters, except as expressly authorized in this MSA. The Company shall not be responsible for payment of, and Consultant shall not make a claim against the Company for, worker’s compensation, health or disability benefits, or unemployment insurance, nor shall the Company be responsible for withholding or paying employment related taxes or withholdings for or on behalf of Consultant. In the event that any federal, state or local government agency, any court or any other applicable entity determines that Consultant is an employee of the Company for any purpose, Consultant agrees to indemnify and hold the Company harmless from all liabilities, costs, taxes and/or expenses (including, but not limited to, attorneys’ fees) associated with such determination.

3. PERSONNEL

Consultant shall comply with the Company’s reasonable security regulations, including any procedures that Company personnel and other consultants are normally asked to follow. Unless otherwise agreed by the Parties, Consultant shall observe the Company’s working rules, working hours and holiday schedules if working on the Company’s premises. Consultant specifically acknowledges that the Company is committed to a drug-free work place and Consultant represents, warrants and covenants that it is, and shall be, in compliance with such working rule.

4. INSURANCE

4.1 Requirement to Maintain Insurance. Prior to commencing the Services and for the duration of the term of the MSA, Consultant shall maintain without interruption and at its own expense, insurance having the following coverage:

(a) Commercial general liability insurance with a limit of not less than Two Hundred and Fifty Thousand Dollars (\$250,000) and such insurance shall:

- (1) be written on a per occurrence basis, and
- (2) be endorsed to cover liability arising from premises, operations, independent contractors, products-completed, personal injury and advertising injury, and liability assumed under an insured contract.

(b) Property insurance on a “Special Causes of Loss” form covering Contractor property for its full replacement cost.

Unless otherwise agreed to in writing by Company, all policies of insurance shall be underwritten through insurance companies at all times licensed to do business in the various states where the Services are provided with an AM. Best rating of A- VII or better. Subject to the other provisions of this Section 4.1, Contractor shall have its respective policies of insurance required herein endorsed to provide that such policies of insurance shall not be canceled, non-renewed or materially altered without prior written notice to Company. Contractor shall have its respective policies of insurance required herein endorsed to waive the insurance carriers’ rights of subrogation against Company.

4.2 Company Named as Insured. Company shall be named as an additional insured under the commercial general liability coverage required above and such additional insured coverage shall be provided on a primary basis and shall not require Company's policies to contribute toward the payment of any loss.

4.3 Proof of Insurance. Prior to commencing the Services but in no event later than ten (10) business days from the date Consultant executes this MSA, Consultant shall deliver to Company Certificates of Insurance, or other proof of coverage satisfactory to Company, evidencing compliance with the terms hereof, and upon Company's request, true and correct copies of the insurance policies.

5. COSTS, COMPENSATION AND INVOICING

5.1 Consultant's Efforts to Minimize Charges. Consultant shall use commercially reasonable efforts to perform each Service in as economical a manner as practicable and to minimize the time and materials charges or costs and other charges and expenses incurred in connection therewith, to the maximum extent practicable, consistent with Consultant's other obligations under the applicable Task Order.

5.2 Fees and Costs. Consultant will perform work at a monthly rate. The monthly rate basis ("Standard Monthly Rate") is twelve-thousand eight hundred dollars (\$12,800) and includes up to sixty-four (64) consulting hours per month. Any consulting hours beyond sixty-four (64) hours per month ("Excess Hours") will be paid at an hourly rate of \$200 per hour ("Excess Hours Rate"). Consultant must receive written pre-approval from the Company prior to incurring any hours beyond sixty-four (64) in any given month. Non-labor expenses and materials costs ("Nonlabor Costs") to be reimbursed by Company must be pre-approved. Non-Labor Costs shall be properly documented and incurred by Consultant in connection with providing the Services and under no circumstances shall Company reimburse more than the actual cost to Consultant. Company will pay Consultant the sum of the Standard Monthly Rate plus, the product of Excess Hours multiplied by the Excess Hours Rate, within 15 days after receiving Consultant's fee invoices. Consultant will invoice for reimbursement any Non-labor Costs on a monthly basis.

5.3 Services Covered. Both parties acknowledge and agree that the compensation and reimbursement set forth in Section 5.2 are intended to compensate Consultant fully for all Services and/or Deliverables to be performed and/or provided by Consultant pursuant to applicable Task Orders. Accordingly, the Company shall not be obligated to pay Consultant any consideration or amounts in addition to those described in Section 5.2.

5.4 Taxes. Consultant agrees to sign the IRS Form W-9 attached hereto and return it to the Company within five days of execution of this MSA. Consultant shall be responsible for any sales, use, excise, value-added, services, consumption and other taxes and duties payable by Consultant on any goods or services used or consumed by Consultant in providing the Services where the tax is imposed on Consultant's acquisition or use of such goods or services and the amount of tax is measured by Consultant's costs in acquiring such goods or services.

5.5 Invoicing. As set forth in an applicable Task Order, Consultant shall issue invoices to the Company with the pricing detail and in a format and on the media agreed upon by Company and Consultant.

6. INDEMNITIES

Consultant Indemnity. Consultant agrees to indemnify, defend at its expense and hold harmless the Company, and its affiliates, subsidiaries, partners, officers, directors, employees, agents, successors and assigns from any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising from or related to: (i) any breach of the representations, warranties and covenants made by Consultant under this MSA; (ii) any breach of the confidentiality obligations hereunder by Consultant; (iii) any claim of infringement made against the Company or its representatives of any patent, copyright, trademark, trade secret or other proprietary right relating to Deliverables, documentation and/or other materials provided by Consultant; (iv) any claim of misappropriation of Confidential Information alleged to have occurred because of the Company's (or its designated representatives) use of Deliverables, documentation and/or other materials provided by Consultant; or (v) any personal injury or property damage in connection with or arising out of the fault or negligence of Consultant or otherwise relating to the furnishing, performance or use of the Services, Deliverables or other materials provided under this MSA or any Task Order. This Section 6 shall survive the termination of this MSA.

7. BINDING ARBITRATION

Any dispute, controversy or claim arising out of or relating to this MSA or a Task Order shall be settled by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. The arbitration shall be held in Houston, Texas unless the parties mutually agree on a different location. Each party shall be responsible for its own costs and expenses. The parties understand and agree that this MSA and the transactions contemplated herein will have a material connection to interstate commerce and intend that the Federal Arbitration Act apply hereto. The decision of a majority of the arbitrators shall be final and binding. If the losing party does not abide by the decision and award within 30 days, then the prevailing party may file suit in a court of competent jurisdiction to enforce the arbitrator's decision and award. This Section 7 shall survive the termination of this MSA.

8. OWNERSHIP

The Company, its successors and assigns, shall have the unfettered right to obtain, and to hold in its own name, patents, copyrights, registrations, or such other intellectual property rights and protections as may be appropriate. All Deliverables shall bear the Company's copyright and trade secret notices.

9. CONFIDENTIALITY AND PROPRIETARY RIGHTS

9.1 Non-Disclosure. Consultant shall preserve as strictly confidential and proprietary all information and material of or relating to the Company, whether or not marked as confidential, including but not limited to the Company information, materials, data, strategic plans, financial information, personnel files, customer (or potential customer) lists, or other information that the Company may provide to Consultant, or Consultant may receive, in connection with this MSA or the Task Order(s) (collectively "Confidential Information"). Consultant shall hold the Confidential Information in confidence, with reasonable care and shall not disseminate such Confidential Information to except to representatives of the Company pursuant to the performance of the Services hereunder. Consultant agrees to preserve any copyright, trademark and other proprietary rights notices on all Confidential Information and promptly notify the Company of any disclosure of Confidential Information that is not in accordance with this MSA. Consultant agrees that in the event of a breach or threatened breach of this Section 9.1, that the Company may be irreparably harmed such that monetary damages will not adequately compensate for its injuries. In the event of any such breach, the Company shall be entitled, in addition to any rights or remedies it may have at law or in equity, to temporary and permanent injunctive relief issued by any court of competent jurisdiction enjoining and restraining Consultant from continuing such breach and the payment by Consultant of all costs associated with any litigation, including attorneys' fees. The foregoing obligations shall survive termination or expiration of this MSA or any Task Order.

9.2 Limitations. Confidential Information shall not include information to the extent that Consultant can show that such information: (i) has been publicly disclosed through no wrongful act of Consultant or its representatives; (ii) was received from a third party having the right to lawfully possess and disclose same and without breach of this MSA or another obligation of confidentiality to Company; (iii) was approved for release by prior written authorization of the Company; or (iv) is or was required to be disclosed by a court of competent jurisdiction pursuant to applicable law or regulation, but only to the extent expressly required and only after alerting the Company of such disclosure requirement.

9.3 Return or Destruction of Confidential Information. Promptly following the termination of this Agreement, Consultant will return or, at the instruction of Company, destroy (and certify such destruction to the Company), any Confidential Information (and any copies thereof) in Consultant's possession.

10. WARRANTIES

Consultant represents, warrants and covenants that: (a) Consultant will comply with all laws and regulations in performing the Services; (b) Consultant will perform the Services in accordance with the terms and conditions of this MSA and any Task Order in a professional and workmanlike manner consistent with best industry standards and practice; (c) Consultant possesses all right, power and authority to enter into this MSA; (d) all Deliverables shall be original works of Consultant or that Consultant shall have all rights necessary to provide such Deliverables; and (e) neither the Services, Deliverables nor any other materials, or any part thereof, provided to the Company shall infringe any patent, copyright, trademark, trade secret or other proprietary right of a third party. The parties may agree upon additional warranties that will apply to specific Task Orders. If any Services performed by Consultant fail to meet the above warranties, then, without limiting any other remedies at law or in equity, Consultant promptly shall correct or re-perform any affected Services at no cost to the Company.

11. TERM AND TERMINATION

11.1 Term. The term of this MSA will commence on the Effective Date and shall terminate six months later, unless sooner terminated pursuant to this Article 11. The length of the Agreement may be extended on a month-to-month basis, provided that both Parties to agree to extend in writing.

11.2 Termination for Cause. This MSA and/or any Task Order issued under it may be terminated by either Party (reserving cumulatively all other rights and remedies at law or in equity unless expressly stated herein) in the event the other Party has materially breached this MSA or any Task Order (i) upon receipt of written notice thereof if such material breach is incapable of cure; or (ii) upon the expiration of 30 days (or such additional cure period as the non-breaching Party may authorize in writing) after receipt of written notice thereof if the material breach is capable of cure and has not been cured. Waiver of a particular material breach shall not imply waiver of any other material breach. Consultant may terminate this MSA or a particular Task Order in the event that the Company fails to pay Consultant undisputed amounts under this MSA or a particular Task Order within 60 days of invoicing.

11.3 Termination for Convenience. The Company and Consultant may terminate this MSA at any time for convenience and without cause. Exercise of this right must be accomplished by giving the other Party prior written notice designating the termination date (which termination date shall not be less than 30 days following such notice) and by paying Contractor all compensation and reimbursement due pursuant to Section 5.2 through the date of termination.

12. EQUIPMENT

Company will provide the Consultant with a laptop equivalent to the hardware provided to Company's employees, without access to the Company's electronic systems of record. Except as set forth in Section 5.2, Contractor shall be responsible for all other equipment employed in the performance of the Services and creation of the Deliverables. All equipment obtained from the Company must be returned in good working order upon the termination of the MSA. The Consultant will reimburse Company's for any lost, damaged or stolen equipment.

13. GENERAL

13.01 Assignment. This MSA shall be binding on the Parties and their respective successors and permitted assigns. Neither Party may, nor shall have the power to, assign this MSA without prior written consent of the other, except that the Company may assign its rights and obligations under this MSA without approval of Consultant to an entity that acquires all or substantially all of the assets of the Company or to any subsidiary or affiliate or successor in a merger or acquisition of the Company; provided that in no event shall such assignment relieve the Company of its obligations under this MSA.

13.02 Force Majeure. In the event performance of this MSA or a particular Task Order is prevented or interfered with by reason of acts of God, fires, floods, epidemic, strikes, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party whose performance is affected, the Party so affected, upon giving prompt notice to the other Party of the circumstances causing its delay or failure to perform and of its plans and efforts to implement a work-around solution, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased), provided, however, that the Party so affected shall use its reasonable efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease. In the event such delay shall extend for a period which substantially and adversely impacts the Services, and in no event more than three consecutive days, then the Company may terminate this MSA without liability upon written notice to Consultant. For the avoidance of doubt, Company shall have no obligation to pay any compensation pursuant to Section 5.2 that corresponds to days during which Consultant's performance of Services or creation of Deliverables is excused pursuant to this Section 12.02.

13.03 Informal Dispute Resolution. The Parties agree that, prior to initiating formal dispute resolution pursuant to Section 7 relating to any matter set forth in this MSA, they will attempt to resolve disputes informally by working together to promptly address problems and escalate issues as reasonably necessary.

13.04 Notices. Any notices or communication under this MSA and/or any Task Order shall be in writing and shall be hand delivered or sent by registered mail return receipt requested to the Party receiving such communication at the address first set forth above, or such other address as either Party may in the future specify to the other Party in accordance with this notice provision.

13.05 Governing Law. This MSA and related Task Order(s) shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its choice of law rules. This provision shall not be construed to conflict with the provisions of Section 7.

13.06 Entire Agreement. Except as provided below in this Section 12.06, this MSA and each Task Order attached hereto set forth the entire understanding and agreement of the Parties as to the specific subject matter therein, and supersede all prior agreements and representations, whether written or oral, with respect to the subject matter of this MSA, and each Task Order, between the Parties. No modification, amendment, supplement to or waiver of this MSA or any Task Order, or any of their provisions, shall be binding upon the Parties unless made in writing and duly signed by both Parties.

13.07 Counterparts. This MSA and any Task Order may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same MSA.

13.08 No Waiver. No waiver shall be effective unless in writing signed by an authorized representative of the Party against whom enforcement of the waiver is sought. Neither the failure of either Party to exercise any right of termination, nor the waiver of any default or breach shall constitute a waiver of the rights granted in this MSA with respect to any subsequent other default or breach.

13.09 No Interference. Consultant represents to the Company that, as of the Effective Date, Consultant is not subject to any obligation that would prevent Consultant from entering into this MSA or any Task Order, and that Consultant's offer to provide Services and the Company's acceptance of such offer in no way causes or induces Consultant to breach any contractual obligation to any other party.

13.10 Non-disparagement. Consultant agrees he will neither make nor cause to be made any statements that disparage, or damage the reputation of Company or any of its affiliates or interfere with the contracts and relationships that Company or any of its affiliates has with others at any time during the term of this MSA. In the event Consultant makes such a disparaging communication to anyone, including but not limited to the media, public interest groups, and publishing companies, it will be considered a material breach of the terms of this MSA.

13.11 Non-solicit. Consultant agrees that for the duration of this MSA, and for a period of 12 months following termination of this Agreement, Consultant shall not either directly or indirectly, on his behalf or on behalf of others, solicit, attempt to hire, or hire any person employed by Company or any of its affiliates to work for Consultant or for another entity, firm, corporation, or individual.

13.12 Severability. In the event any one or more of the provisions of this MSA or of any Task Order is invalid or otherwise unenforceable, the enforceability of remaining provisions shall be unimpaired.

13.11 Publicity. Consultant agrees not to publicize this MSA or any Task Order in press releases, advertising or materials distributed to prospective customers without the prior written consent of the Company, in each instance, which consent may be withheld in its sole discretion. The Company shall be entitled to reference this MSA in any public filings or press releases it makes.

13.12 Remedies. The rights and remedies of the Company as set forth in this MSA are not exclusive and are in addition to any other rights and remedies available to it at law or in equity.

13.13 Survival. Any provision of this MSA which contemplates performance or payment subsequent to any termination or expiration of this MSA shall survive any termination or expiration of this MSA and continue in full force and effect.

13.14 Headings. The section headings in this MSA are intended for reference purposes only and shall in no way be construed to modify or restrict any of the terms or provisions of this MSA.

IN WITNESS WHEREOF, the parties hereto have executed this MSA as of the date first above written.

Woodlands Financial Advisory LLC
Consultant

Company:
Conn Appliances, Inc.

/s/ John Davis 4/6/2020

/s/ Lee A. Wright 4/14/2020

Signature & Date

Signature & Date

John Davis

Lee A. Wright

Name

Name

Title: CEO

Title: COO

Exhibit A

Task Order

This Task Order outlines the specific areas for which the Consultant will be provide services as referenced in the MSA effective April 14, 2020.

1. Advise on credit policy
2. Advisory review of collections strategy
3. Assistance and advice on model-scorecard development and analytics
4. Assistance and advice on marketing analytics (Direct mail and digital)
5. Other assistance and advice on analytics as agreed upon by Company and Consultant
6. Transition support and assistance
7. Business development
 - a. Lead sourcing
 - b. Partnership development
 - c. Work with various third-parties, other lenders and payment providers
 - d. Warranty or insurance
8. Other advisory services as agreed upon by Company and Consultant

CERTIFICATION

I, Norman L. Miller, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Conn's, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Norman L. Miller

Norman L. Miller

Chairman of the Board, Chief Executive Officer and President
(Principal Executive Officer)

Date: June 9, 2020

CERTIFICATION

I, George L. Bchara, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Conn's, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ George L. Bchara

George L. Bchara

Executive Vice President and Chief Financial Officer

(Principal Financial Officer)

Date: June 9, 2020

**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 Quarterly Report of Conn's, Inc. (the "Company") on Form 10-Q for the period ended April 30, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Norman L. Miller, Chairman of the Board, Chief Executive Officer and President of the Company, and George L. Bchara, Executive Vice President and Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of our knowledge:

- (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 results of operations of the Company.

/s/ Norman L. Miller

Norman L. Miller
Chairman of the Board, Chief Executive Officer and President
(Principal Executive Officer)

/s/ George L. Bchara

George L. Bchara
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

Date: June 9, 2020

A signed original of this written statement required by Section 906 has been provided to Conn's, Inc. and will be retained by Conn's, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.