IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ROADHOUSE HOLDING INC., *et al.*,[1]	Case No. 16 -11819 (BLS)
	Jointly Administered
Debtors.	**Ref. No.: 329, 459**

NOTICE OF FILING (FIRST) OF PROPOSED AMENDMENTS AND REVISIONS TO PLAN SUPPLEMENT DOCUMENTS

PLEASE TAKE NOTICE THAT the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") filed the Plan Supplement (as such term is defined in the *Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code*, dated September 28, 2016 [Docket No. 329] (as may be amended, supplemented, or modified from time to time, the "**Plan**")[2]) on October 26, 2016 [Docket No. 459].

PLEASE TAKE FURTHER NOTICE THAT, as stated in the Plan Supplement, certain documents, or portions thereof, contained in the Plan Supplement remain subject to continuing negotiations among the Debtors and interested parties with respect thereto. The Debtors and the parties to the Restructuring Support Agreement have proposed certain amendments and revisions to certain of the documents included in the Plan Supplement.

PLEASE TAKE FURTHER NOTICE THAT, the Debtors hereby file the following documents, as described in the chart below:

[1] The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Roadhouse Holding Inc. (5939); Roadhouse Intermediate Inc. (6159); Roadhouse Midco Inc. (6337); Roadhouse Parent Inc. (5108); LRI Holdings, Inc. (4571); Logan's Roadhouse, Inc. (2074); Logan's Roadhouse of Texas, Inc. (2372); and Logan's Roadhouse of Kansas, Inc. (8716). The location of the Debtors' corporate headquarters is 3011 Armory Drive, Suite 300, Nashville, Tennessee 37204.

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Plan.

Exhibit	Plan Supplement Document	Type of Document/Notes
A	Litigation Rights	Blackline reflecting potential revisions and/or amendments
B	Exit First Lien Facility	Blackline reflecting potential revisions and/or amendments
C	Exit Second Lien Facility	Blackline reflecting potential revisions and/or amendments
D	Exit Financing Intercreditor Agreement	Blackline reflecting potential revisions and/or amendments
F	Reorganized Holding Certificate of Incorporation	Blackline reflecting potential revisions and/or amendments
G	Reorganized Holding By-Laws	Blackline reflecting potential revisions and/or amendments
H	Reorganized Holding Shareholder Agreement	Blackline reflecting potential revisions and/or amendments

These documents, or portions thereof, remain subject to continuing negotiations among the Debtors and interested parties with respect thereto.

PLEASE TAKE FURTHER NOTICE THAT subject to the express provision of the Plan, the Debtors reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained therein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court.

[remainder of page intentionally left blank]

Dated: Wilmington, Delaware
November 6, 2016

/s/ Ryan M. Bartley

Young Conaway Stargatt & Taylor, LLP
Robert S. Brady (No. 2847)
Edmon L. Morton (No. 3856)
Ryan M. Bartley (No. 4985)
Elizabeth S. Justison (No. 5911)
Norah M. Roth-Moore (No. 6125)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Tel: (302) 571-6600
Fax: (302) 571-1253
Email: rbrady@ycst.com
emorton@ycst.com
rbartley@ycst.com
ejustison@ycst.com
nroth-moore@ycst.com

Counsel for the Debtors and Debtors in Possession

EXHIBIT A

Litigation Rights

LITIGATION RIGHTS DISCLOSURES

Notwithstanding, and without limiting the generality of, Section IX.C. of the Plan, the Debtors identify the following specific types of Causes of Action, to the extent not previously released, settled or compromised, or released or exculpated under Article IX of the Plan, that are expressly preserved by the Debtors and the Reorganized Debtors, and over which it is anticipated that the Bankruptcy Court will exercise continuing subject-matter jurisdiction after the Effective Date; for the avoidance of doubt, the Debtors and Reorganized Debtors are not retaining any Avoidance Actions:

- Claims Related to Employment Agreements: Causes of Action against any employee for violating any non-compete provision, non-solicitation provision, or any similar restrictive covenant in an employment or severance agreement.
- Claims Related to Accounts Receivable, Loans and Accounts Payable: Causes of Action against or related to all entities that owe or that may in the future owe money to the Debtors or Reorganized Debtors or who may assert that they have reduced any indebtedness to the Debtors through offset or recoupment. Furthermore, the Debtors expressly reserve all Causes of Action against or related to all entities who assert or may assert that the Debtors or Reorganized Debtors owe money to them.
- Claims Related to Insurance Policies: Causes of Action based in whole or in part upon any and all insurance contracts, insurance policies, occurrence policies, and occurrence contracts to which any Debtor or Reorganized Debtor is a party or pursuant to which any Debtor or Reorganized Debtor has any rights whatsoever, including Causes of Action against insurance carriers, reinsurance carriers, insurance brokers, underwriters, occurrence carriers or surety bond issuers relating to coverage, indemnity, contribution, reimbursement or any other matters.
- Claims Related to Deposits, Adequate Assurance Postings, and Other Collateral Postings: Causes of Action based in whole or in part upon any and all postings of a security deposit, adequate assurance payment, or any other type of deposit or collateral.
- Claims, Defenses, Cross-Claims, and Counter-Claims Related to Litigation and Possible Litigation: All claims, defenses, cross claims, and counterclaims against or related to all entities that are party to or that may in the future become party to litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding, whether formal or informal, judicial or non-judicial. This includes, without limitation, all Causes of Action and pending litigation identified in the Schedules of Assets and Liability and the Statement of Financial Affairs filed by each of the Debtors. [*See* Docket Nos. 200-204, 206-209, and 211-217]
- Claims Related to Franchise Agreements, Contracts and Leases: Causes of Action based in whole or in part upon any and all franchise agreements, contracts and leases to which any Debtor or Reorganized Debtor is a party or pursuant to which any Debtor or Reorganized Debtor has any rights whatsoever. The claims and Causes of Actions reserved include, without limitation, Causes of Action against franchisees, vendors, suppliers of goods or services, or any other parties: (a) for overpayments, back charges, duplicate payments, improper holdbacks, deposits, warranties, guarantees, indemnities, recoupment, or setoff; (b) for wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations; (c) for

failure to fully perform or to condition performance on additional requirements under contracts with any one or more of the Debtors before the assumption or rejection, if applicable, of such contracts; (d) for payments, deposits, holdbacks, reserves, or other amounts owed by any creditor, utility, supplier, vendor, insurer, surety, factor, lender, bondholder, lessor, or other party; (e) for any liens, including mechanic's, artisan's, materialmen's, possessory, or statutory liens held by any one or more of the Debtors; (f) counter-claims and defenses related to any contractual obligations; (g) any turnover actions arising under section 542 or 543 of the Bankruptcy Code; (h) for unfair competition, interference with contract or potential business advantage, breach of contract, infringement of intellectual property, or any business tort claims; and (i) any accumulated service credits, both those that may apply to future vendor invoices and those from which the Debtors may be entitled to receive a refund.

- Claims Related to Customer Obligations: Causes of Action against or related to all customers, including vendors, purchasers or distributors of stored value cards, that owe or may in the future owe money to the Debtors or the Reorganized Debtors, whether for unpaid invoices or any other matter whatsoever.

EXHIBIT B

Exit First Lien Facility

DRAFT 11/4/16

$29,000,000

FIRST LIEN REVOLVING CREDIT AGREEMENT

among

LOGAN'S ROADHOUSE, INC.,
as Borrower,

LRI HOLDINGS, INC.,
as Holdings,

The Other Loan Parties from Time to Time Parties Hereto,

The Several Lenders from Time to Time Parties Hereto,

JPMORGAN CHASE BANK, N.A.,
CREDIT SUISSE AG,
as Senior Lead Arrangers,

and

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

Dated as of [___], 2016

TABLE OF CONTENTS

Page

SECTION 1. DEFINITIONS 1

1.1 Defined Terms 1
1.2 Other Definitional Provisions ~~25~~26

SECTION 2. AMOUNT AND TERMS OF COMMITMENTS ~~25~~27

2.1 Revolving Commitments ~~25~~27
2.2 Procedure for Revolving Loan Borrowing ~~26~~27
2.3 Commitment Fees, etc. ~~26~~27
2.4 Voluntary Termination or Reduction of Revolving Commitments ~~27~~28
2.5 Optional Prepayments ~~27~~28
2.6 Mandatory Prepayments and Commitment Reductions ~~27~~28
2.7 Conversion and Continuation Options ~~28~~29
2.8 Limitations on Eurodollar Tranches ~~28~~29
2.9 Interest Rates and Payment Dates ~~28~~30
2.10 Computation of Interest and Fees ~~29~~30
2.11 Inability to Determine Interest Rate ~~29~~31
2.12 Payments Generally; Pro Rata Treatment; Sharing of Set-offs ~~30~~31
2.13 Requirements of Law ~~31~~32
2.14 Taxes ~~32~~33
2.15 Indemnity ~~35~~36
2.16 Change of Lending Office ~~35~~36
2.17 Replacement of Lenders ~~35~~36
2.18 Defaulting Lenders ~~36~~37
2.19 PIK Term Loans. ~~37~~38

SECTION 3. LETTERS OF CREDIT ~~37~~38

3.1 L/C Commitment ~~37~~38
3.2 Procedure for Issuance of Letter of Credit ~~38~~39
3.3 Fees and Other Charges ~~38~~39
3.4 L/C Participations ~~38~~39
3.5 Reimbursement Obligation of the Borrower ~~39~~40
3.6 Obligations Absolute ~~39~~40
3.7 Letter of Credit Payments ~~40~~41
3.8 Applications ~~40~~41

SECTION 4. REPRESENTATIONS AND WARRANTIES ~~40~~41

4.1 Financial Condition ~~40~~41
4.2 No Change ~~41~~42
4.3 Existence; Compliance with Law ~~41~~42
4.4 Power; Authorization; Enforceable Obligations ~~41~~42
4.5 No Legal Bar ~~41~~42
4.6 Litigation ~~42~~43
4.7 No Default ~~42~~43

Page

4.8 Ownership of Property; Liens; Possession Under Leases; Insurance 42-43
4.9 Location of Real Property and Leased Premises 42-43
4.10 Intellectual Property 43-44
4.11 Taxes 43-44
4.12 Federal Regulations 43-44
4.13 Labor Matters 43-44
4.14 ERISA 43-44
4.15 Investment Company Act; Other Regulations 44-45
4.16 Subsidiaries 44; Equity Interests 45
4.17 Use of Proceeds 44-45
4.18 Environmental Matters 44-45
4.19 Accuracy of Information, etc 45-46
4.20 Security Documents 45-46
4.21 Solvency 46-47
4.22 EEA Financial Institutions 46-47
4.23 Insurance 47
4.24 Anti-Corruption Laws and Sanctions 47

SECTION 5. CONDITIONS PRECEDENT 46-47

5.1 Conditions to Initial Extension of Credit 46-47
5.2 Conditions to Each Extension of Credit 49-51

SECTION 6. AFFIRMATIVE COVENANTS 49-51

6.1 Financial Statements 50-51
6.2 Certificates; Other Information 50-52
6.3 Payment of Obligations 52-53
6.4 Maintenance of Existence; Compliance 52-54
6.5 Maintenance of Property; Insurance 52-54
6.6 Inspection of Property; Books and Records; Discussions 53-54
6.7 Notices 53-55
6.8 Environmental Laws 53-55
6.9 Additional Collateral, etc 54-56
6.10 Compliance with Laws 55-58
6.11 Chief Restructuring Officer 55-58
~~6.12 Post-Closing Obligations 55~~

SECTION 7. NEGATIVE COVENANTS 55-58

7.1 Liens, Etc 56-58
7.2 Indebtedness 57-60
7.3 Changes in Nature of Business 59-62
7.4 Mergers, Etc 59-62
7.5 Sales, Etc., of Assets 60-63
7.6 Investments in Other Persons 61-64
7.7 Restricted Payments 62-65
7.8 Amendments of Constitutive Documents and Exit Second Lien Facility 63-66
7.9 Accounting Changes 63-67
7.10 Prepayments, Etc., of Indebtedness 64-67
7.11 Negative Pledge 64-67

Page

7.12 Holding Company 64 67
7.13 Payment Restrictions Affecting Subsidiaries 65 68
7.14 Transactions with Affiliates 65 68
7.15 Use of Proceeds 66 69
7.16 Capital Expenditures 66 69
7.17 Financial Covenants 66 69

SECTION 8. EVENTS OF DEFAULT 67 70

SECTION 9. THE AGENT 70 73

9.1 Appointment 70 73
9.2 Delegation of Duties 70 74
9.3 Exculpatory Provisions 70 74
9.4 Reliance by Administrative Agent 70 74
9.5 Notice of Default 71 74
9.6 Non-Reliance on Administrative Agent and Other Lenders 71 75
9.7 Indemnification 71 75
9.8 Administrative Agent in Its Individual Capacity 72 76
9.9 Successor Administrative Agent 72 76
9.10 Senior Lead Arrangers 72 76

SECTION 10. MISCELLANEOUS 72 76

10.1 Amendments and Waivers 72 76
10.2 Notices 73 77
10.3 No Waiver; Cumulative Remedies 74 78
10.4 Survival of Representations and Warranties 74 78
10.5 Payment of Expenses 74 78
10.6 Successors and Assigns; Participations and Assignments 75 79
10.7 Adjustments; Set-off 79 82
10.8 Counterparts 79 83
10.9 Severability 79 83
10.10 Integration 79 83
10.11 **GOVERNING LAW** 80 83
10.12 Submission To Jurisdiction; Waivers 80 83
10.13 Acknowledgements 80 84
10.14 Releases of Guarantees and Liens 80 84
10.15 Confidentiality 81 85
10.16 WAIVERS OF JURY TRIAL 81 85
10.17 USA Patriot Act 82 85
10.18 Intercreditor Agreement 82 85
10.19 Acknowledgement and Consent to Bail-In of EEA Financial Institutions 82 86

SCHEDULES:

1.1A Commitments
1.1B Existing Letters of Credit
4.4 Consents, Authorizations, Filings and Notices
4.9(a) Owned Real Property
4.9(b) Leased Real Property (Lessee)
4.9(c) Leased Real Property (Lessor)
4.10 Intellectual Property
4.16 Subsidiaries
4.20(a) UCC Filing Jurisdictions
4.20(b) Mortgage Filing Jurisdictions
4.23 Insurance
7.1(c) Existing Liens
7.2(a) Existing Indebtedness

[EXHIBITS:

A Form of Guarantee and Collateral Agreement
B Form of Compliance Certificate
C Form of Closing Certificate
D Form of Secretary's Certificate
E [Reserved]
F Form of Assignment and Assumption
G [Reserved]
H Forms of Exemption Certificate
I Form of Intercreditor Agreement
J Form of Solvency Certificate

THIS FIRST LIEN REVOLVING CREDIT AGREEMENT (this "Agreement"), dated as of [___], 2016, among Logan's Roadhouse, Inc., a Tennessee corporation and as reorganized pursuant to the Plan of Reorganization referred to below (the "Borrower"), LRI Holdings, Inc., a Delaware corporation and as reorganized pursuant to the Plan of Reorganization ("Holdings"), the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), JPMorgan Chase Bank, N.A. and Credit Suisse AG, as senior lead arrangers (in such capacity, the "Senior Lead Arrangers"), and JPMorgan Chase Bank, N.A., as administrative agent.

RECITALS:

WHEREAS, Holdings and the Borrower are party to the Credit Agreement, dated as of October 4, 2010 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "Existing Facility") among Holdings, the Borrower, JPMorgan Chase Bank, N.A. and Credit Suisse AG, Cayman Islands Branch, as lenders and JPMorgan Chase Bank, N.A., as administrative agent;

WHEREAS, on August 8, 2016 (the "Petition Date"), the Debtors (as defined in the Plan of Reorganization, the "Debtors") filed voluntary petitions with the Bankruptcy Court initiating their respective cases and continued in the possession of their assets and in the management of their business pursuant to Sections 1107 and 1008 of the Bankruptcy Code (the "Chapter 11 Cases");

WHEREAS, the Debtors filed the Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code and the related Disclosure Statement for Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (as amended or otherwise modified in accordance with its terms, the "Plan of Reorganization") and a related Disclosure Statement, with the Bankruptcy Court on September 28, 2016;

WHEREAS, pursuant to the Plan of Reorganization and subject to the terms and conditions set forth in this Agreement, on the Closing Date, (i) the outstanding Loans (as defined in the Existing Facility, the "Existing Loans") shall be deemed to be repaid with the proceeds of the Revolving Loans borrowed hereunder, (ii) all outstanding Letters of Credit (as defined in the Existing Facility) shall be deemed to have been issued under and pursuant to the terms of this Agreement and (iii) all outstanding interest, fees and expenses owing under the Existing Facility shall be paid in cash;

WHEREAS, on [___], 2016, the Bankruptcy Court entered the confirmation order confirming the Plan of Reorganization (the "Confirmation Order"), which, *inter alia* authorized and approved Debtors' entry into and performance under this Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Eurodollar Rate that would be calculated as of such day (or, if such day is not a Business Day, as of the next preceding Business Day) in respect of a proposed Eurodollar Loan with a one-month Interest Period plus 1.0%. Any change in the ABR due to a change in the Prime

Rate, the NYFRB Rate or such Eurodollar Rate shall be effective as of the opening of business on the day of such change in the Prime Rate, the NYFRB Rate or such Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Administrative Agent": JPMorgan Chase Bank, N.A., together with its affiliates, as the arranger of the Revolving Commitments and as the administrative agent for the Lenders under this Agreement and the other Loan Documents, together with any of its successors.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Loan Party or of any Subsidiary of a Loan Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Agent Fee Letter": the [Agent Fee Letter], dated as of [ ], between the Borrower and Administrative Agent.

"Aggregate Exposure": with respect to any Lender at any time, an amount equal to the amount of such Lender's Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit then outstanding.

"Aggregate Exposure Percentage": with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

"Agreement": as defined in the preamble hereto.

"Anti-Corruption Laws": all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Applicable Margin": (a) in the case of ABR Loans, (i) during the period commencing on the Closing Date and ending on the date that is 12 months after the Closing Date, 7.00%; (ii) during the period commencing on the date that is the first day after the date that is 12 months after the Closing Date and ending on the date that is 18 months after the Closing Date, 10.00% and (iii) during the period commencing on the date that is the first day after the date that is 18 months after the Closing Date and thereafter, 12.00% and (b) in the case of Eurodollar Loans, (i) during the period commencing on the Closing Date and ending on the date that is 12 months after the Closing Date, 8.00%; (ii) during the period commencing on the date that is the first day after the date that is 12 months after the Closing Date and ending on the date that is 18 months after the Closing Date, 11.00% and (iii) during the period commencing on the date that is the day after the date that is 18 months after the Closing Date and thereafter, 13.00%.

"Application": an application, in such form as the Issuing Lender may specify from time to time, requesting the Issuing Lender to open a Letter of Credit.

"Approved Fund": as defined in Section 10.6(b).

"Assignee": as defined in Section 10.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit F.

"Attributable Indebtedness": in respect of a sale and leaseback transaction, as at the time of determination, the present value (discounted at the interest rate implicit in the transaction) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such sale and leaseback transaction (including any period for which such lease has been extended), determined in accordance with GAAP; provided, however, that (i) if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligations" and (ii) obligations under lease arrangements entered into in connection with property that is the subject of a sale and leaseback transaction shall not be considered Attributable Indebtedness to the extent such obligations would not appear as an obligation or liability on the balance sheet of the Borrower for purposes of GAAP.

"Available Revolving Commitment": as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender's Revolving Commitment then in effect over (b) such Lender's Revolving Extensions of Credit then outstanding.

"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.

"Bankruptcy Code": title 11 of the United States Code, as heretofore and hereafter amended, codified as 11 U.S.C. §§ 101 *et seq*.

"Bankruptcy Court": the United States Bankruptcy Court for the District of Delaware or any other court having jurisdiction over the Chapter 11 Cases from time to time.

"Bankruptcy Event": with respect to any Person, such Person or its Parent becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Benefitted Lender": as defined in Section 10.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto.

"Borrowing Date": any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

"Business": as defined in Section 4.18(b).

"Business Day": a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

"Capital Expenditures": for any Person for any period, the sum of, without duplication, (a) all expenditures made, directly or indirectly, by such Person or any of its Subsidiaries during such period for equipment, fixed assets, real property or improvements, or for replacements or substitutions therefor or additions thereto, that have been or should be, in accordance with GAAP, reflected as additions to property, plant or equipment on a consolidated balance sheet of such Person (excluding (i) Capital Expenditures financed with Indebtedness, including pursuant to any Capital Lease Obligations and (ii) capitalized interest) minus (b) the aggregate amount of reimbursements or other landlord improvement contributions actually received by such Person in cash from the landlord during such period. For purposes of this definition, the purchase price of any fixed or capital asset that is acquired in exchange for, or with the proceeds from the sale of, existing fixed or capital assets, or with condemnation proceeds or insurance proceeds shall be included in Capital Expenditures only to the extent of the gross amount of such purchase price exceeds the credit granted by the seller of such asset for the assets being exchanged therefor or the amount of such sale, condemnation or insurance proceeds, as the case may be. The term Capital Expenditures, in any event, shall not include any expenditures that otherwise would constitute capital expenditures made or paid with the net proceeds of amounts paid or contributed after the date hereof to Holdings by any Person who is or thereby becomes a permitted holder of Capital Stock of Holdings, which amounts are contributed through Holdings to the common equity capital of the Borrower.

"Capital Lease Obligations": as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP as in effect on the date hereof and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP as in effect on the date hereof.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Carl Marks": Carl Marks Management Company, LLC.

"Carl Marks Entity": Carl Marks or its Affiliates and Approved Funds as the context may require.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial

bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000; (c) commercial paper of an issuer rated at least A-1 by S&P or P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

"Change in Law": the occurrence, after the date of this Agreement (or with respect to any Lender, if later, the date on which such Lender becomes a Lender), of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided however, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III (but not Basel II), shall in each case be deemed to be a "Change in Law", regardless of the date enacted, issued, adopted, promulgated or implemented.

"Chapter 11 Cases": as defined in the recitals hereto.

"Closing Date": the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied, which is [___], 2016.

"Closing Date Revolving Loans": as defined in Section 2.1(a).

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

"Collateral": all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment Fee Rate": 0.75% per annum.

"Compliance Certificate": a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

"Conduit Lender": any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated

by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender or designated Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.13, 2.14, 2.15 or 10.5 than the designating Lender would have been entitled to receive if the extensions of credit made by such Conduit Lender were made by the designating Lender or (b) be deemed to have any Revolving Commitment.

"Confirmation Order": as defined in the recitals hereto.

"Consolidated EBITDA": for any period, (a) Consolidated Net Income for such period plus (b) without duplication and in each case solely to the extent deducted in determining such Consolidated Net Income for such period, the sum of (i) Consolidated Interest Expense, (ii) income tax expense, (iii) depreciation and amortization expense, (iv) extraordinary or non-recurring non-cash losses or charges (calculated in accordance with GAAP), (v) extraordinary or non-recurring cash charges related to any store closures, systems implementations, or other litigation related expenses in an aggregate amount not to exceed $500,000 in any fiscal year (whether payable during such period or in a subsequent period, and determined in accordance with GAAP), (vi) non-cash stock based compensation expenses, (vii) expenses (including termination payments) related to interest rate Swap Agreements, (viii) Preopening Costs associated with new restaurant store openings, not to exceed $300,000 in the aggregate per restaurant, (ix) all expenses incurred through the Closing Date that are associated with the Transaction and the Chapter 11 Cases, plus other expenses associated with the Transaction and the Chapter 11 Cases that are incurred between the Closing Date and the date that is three months after the Closing Date in an aggregate amount not to exceed $500,000, (x) expenses and adjustments related to purchase accounting or fresh start accounting, (xi) [all expenses related to the employment of a Chief Restructuring Officer pursuant to the terms of this Agreement (A) in an ~~aggregate~~ amount not to exceed ~~$1,000,000,~~[ ] and (B) incurred between the Closing Date and the date that is six months after the Closing Date], (xii) severance and executive search costs incurred through the Closing Date and severance and executive search costs incurred after the Closing Date not to exceed $1,000,000 in the aggregate and (xiii) reasonable non-cash rent expense and non-recurring fees, expenses or charges during such period related to any investment, acquisition, asset sales, debt incurrence or equity issuance (in each case, whether or not completed), minus, (c) without duplication and to the extent included in determining such Consolidated Net Income, the sum of (i) any extraordinary non-cash gains and (ii) any gains (or plus losses) realized in connection with any disposition of property (other than any gains which represent the reversal of a reserve accrued for the payment of cash charges in any future period and any gains from sales of inventory in the ordinary course of business) and (iii) any gains (including cash termination payments received) relating to interest rate Swap Agreements minus (d) the amount of all cash payments made in such period to the extent that such payments relate to any reserve or similar non-cash charge incurred in a previous period that was added back in determining Consolidated EBITDA hereunder pursuant to the preceding subclause (b) (but excluding any cash severance payments up to an aggregate amount of $1,000,000 in any fiscal year); provided that, Consolidated EBITDA for such period shall not include the cumulative effect of a change in accounting principles during such period. For purposes of this Agreement, Consolidated EBITDA shall be adjusted on a pro forma basis, as determined reasonably and in good faith by the Borrower and including as of the first day of any applicable period, for any Permitted Dispositions closed during such period, and, for any inter-period test, Permitted Dispositions closed subsequent to such period and prior to the relevant test date, including, without limitation, to the extent that such costs and expenses were deducted in determining Consolidated EBITDA hereunder, adjustments reflecting any non-recurring costs and any extraordinary expenses of any Permitted Dispositions closed during such period, and fees and expenses related thereto, and to reflect operating

expense reductions and other operating improvements or synergies reasonably expected to result from such Permitted Disposition or other similar transaction, calculated on a basis consistent with GAAP and Regulation S-X of the Securities Exchange Act of 1934, as amended, or that are determined in good faith by a reasonable financial or accounting officer of the Borrower; provided that such calculations are set forth in an Officer's Certificate signed by the Borrower's Chief Financial Officer or Vice President of Finance if the Chief Financial Officer position is vacant stating (i) that such calculations are based on the reasonable good faith beliefs of the officer executing such Officer's Certificate at the time of such execution and (ii) any related incurrence of Indebtedness is permitted pursuant to this Agreement.

"Consolidated Interest Expense": for any period, the total interest expense of the Borrower and its Subsidiaries, whether paid or accrued, plus, to the extent not included in such interest expense:

(a) interest expense attributable to Capital Lease Obligations and the interest portion of rent expense associated with Attributable Indebtedness in respect of the relevant lease giving rise thereto, determined as if such lease were a capitalized lease in accordance with GAAP and the interest component of any deferred payment obligations;

(b) amortization of debt discount (including the amortization of original issue discount resulting from the issuance of Indebtedness at less than par) and debt issuance cost; provided, however, that any amortization of bond premium will be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such amortization of bond premium has otherwise reduced Consolidated Interest Expense;

(c) non-cash interest expense, but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of obligations under Specified Swap Agreements (or other derivative instruments pursuant to GAAP);

(d) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;

(e) interest actually paid by the Borrower or any such Subsidiary under any guarantee of Indebtedness or other obligation of any other Person;

(f) costs associated with Specified Swap Agreements (including amortization of fees) related to Indebtedness provided, however, that if Specified Swap Agreements result in net benefits rather than costs, such benefits shall be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such net benefits are otherwise reflected in Consolidated Net Income;

(g) the interest expense of such Person and its Subsidiaries that was capitalized during such period;

(h) the product of (i) all dividends paid or payable, in cash, Cash Equivalents or Indebtedness or accrued during such period on any series of Disqualified Stock of such Person or on Preferred Stock of the Subsidiaries that are not Subsidiary Guarantors payable to a party other than the Borrower or a Wholly Owned Subsidiary, times (ii) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state, provincial and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP; and

(i) the cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than the Borrower and its Subsidiaries) in connection with Indebtedness incurred by such plan or trust.

"Consolidated Net Income": for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP.

"Continuing Directors": the directors of Holdings on the Closing Date, after giving effect to the Confirmation Order and the transactions contemplated hereby and thereby, and each other director, if, in each case, such other director's nomination for election to the board of directors of Holdings is recommended by at least a majority of the then Continuing Directors or such other director receives the vote of the Permitted Investors in his or her election by the shareholders of Holdings.

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control Investment Affiliate": as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Credit Party": the Administrative Agent, the Issuing Lender or any other Lender.

"Debtors": as defined in the recitals hereto.

"Default": any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Defaulting Lender": any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied), (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, (d) has become the subject of a Bankruptcy Event or (e) or has a direct or indirect parent company that has, become the subject of a Bail-In Action.

"DIP Credit Agreement": that certain Debtor-in-Possession Credit Agreement, dated as of August 10, 2016 (as amended, restated, supplemented or otherwise modified prior to the date hereof), among the Borrower, the guarantors from time to time party thereto, the lenders and other parties from time to time party thereto and Cortland Capital Market Services LLC, as administrative agent.

"DIP Facility": the $75,000,000 debtor-in-possession financing pursuant to the DIP Credit Agreement.

"DIP Financing": the New Money Facility and Roll Up Facility.

"Disposition": with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Disposition Threshold": as defined in Section 2.6(b).

"Disqualified Stock": with respect to any Person, any Capital Stock of such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event: (a) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (b) is convertible into or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Borrower or a Subsidiary (it being understood that upon such conversion or exchange it shall be an incurrence of such Indebtedness or Disqualified Stock)), or (c) is redeemable at the option of the holder of the Capital Stock in whole or in part, in each case on or prior to the date 91 days after the earlier of the Revolving Termination Date or the date on which the Borrower terminates all of the Revolving Commitments pursuant to Section 2.4; provided, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock; provided, further that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Borrower to repurchase such Capital Stock upon the occurrence of a change of control or asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities into which it is convertible or exchangeable or for which it is redeemable or exchangeable) provide that the Borrower may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable), pursuant to such provisions prior to compliance by the Borrower with the provisions of Section 7.10 and unless such repurchase or redemption complies with Section 7.7.

"Dollars" and "$": dollars in lawful currency of the United States.

"EEA Financial Institution": (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition and is subject to the supervision of an EEA Resolution Authority, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision of an EEA Resolution Authority 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 any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environmental Laws": any and all foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health affected by exposure to Materials of Environmental Concern, including those relating to waste disposal, as now or may at any time hereafter be in effect.

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

"ERISA Affiliate": any entity, whether or not incorporated, that is under common control with a Group Member within the meaning of Section 4001(a)(14) of ERISA or any trade or business (whether or not incorporated) that, together with any Group Member, is treated as a single employer under Section 414 of the Code.

"ERISA Event": (a) any Reportable Event; (b) the existence with respect to any Plan maintained by a Loan Party of a Prohibited Transaction; (c) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 or 430 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure by any Group Member or any ERISA Affiliate to make any required contribution to a Multiemployer Plan; (e) the incurrence by any Group Member or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (f) a determination that any Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (g) the receipt by any Group Member or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (h) the incurrence by any Group Member or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan or Multiemployer Plan; or (i) the receipt by any Group Member or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from a Group Member or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA) or in "critical and declining" status (within the meaning of Section 305 of ERISA).

"EU Bail-In Legislation Schedule": the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

"Eurodollar Base Rate": with respect to any Eurodollar Loan for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the "Eurodollar Screen Rate") at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the Eurodollar Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further, that if the Eurodollar Screen Rate shall not be available at such time for such Interest Period (an "Impacted Interest Period") then the Eurodollar Base Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum equal to the greater of (x) 1.00% and (y) determined for such day in accordance with the following formula:

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

"Eurodollar Tranche": the collective reference to Eurodollar Loans, the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": any of the events specified in Section 8, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Exchange Act": the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Excluded Litigation": (i) *Carey Bradford and Cody Bolen Individually and on behalf of Similarly Situated Current and Former Employees v. Logan's Roadhouse Inc., et al.*, Case No. 3:14-CV-02184, currently pending in the United States District Court for the Middle District of Tennessee and (ii) *Chad Elchert and Tammy Crochet vs. LRI Holdings, Inc. and Logan's Roadhouse, Inc.*, Case No. 3:16-CV-0564, currently pending in the United States District Court for the Middle District of Tennessee.

"Excluded Taxes": any of the following Taxes imposed on or with respect to the Administrative Agent or any Lender: (a) franchise Taxes, branch profits Taxes or Taxes imposed on or measured by the net income (however denominated) of the Administrative Agent or such Lender in each case that are imposed as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such Taxes or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed ~~in~~its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) in the case of the Administrative Agent or any Lender (other than an assignee pursuant to a request by the Borrower

under Section 2.17), any U.S. Federal withholding Taxes resulting from any Requirement of Law enacted on or prior to (or otherwise in effect on) the date the Administrative Agent or such Lender becomes a party to this Agreement (or designates a new lending office) (or if such Person is an intermediary, partnership or other flow through entity for applicable Tax purposes and the Taxes relate to a beneficiary or member of such Person, such date shall be the date on which the relevant beneficiary or member became such a beneficiary or member, if later), except to the extent that the Administrative Agent or such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment) (or if such Person is an intermediary, partnership or other flow through entity for applicable Tax purposes and the Taxes relate to a beneficiary or member of such Person, at the time on which the relevant beneficiary or member became such a beneficiary or member, if later), to receive additional amounts from the Borrower with respect to such withholding Taxes pursuant to Section 2.14(a), (c) any Taxes attributable to the Administrative Agent's or such Lender's failure to comply with Section 2.14(d) and (e) any U.S. Federal withholding Taxes imposed as a result of FATCA.

"Existing Facility": as defined in the preamble hereto.

"Existing Letters of Credit": each letter of credit previously issued for the account of the Borrower pursuant to the Existing Facility that (a) is outstanding on the Closing Date and (b) is listed on Schedule 1.1B.

"Existing Loans": the Loans under, and as defined in, the Existing Facility that are outstanding immediately prior to giving effect to the Closing Date and, which, on the Closing Date, shall be deemed made under this Agreement.

"Exit Second Lien Administrative Agent": Cortland Capital Market Services LLC, in its capacity as administrative agent for the Exit Second Lien Facility, and any successor in interest thereto.

"Exit Second Lien Agreement": the Second Lien Credit Agreement, dated as of the date hereof, among Holdings, the Borrower, the lenders from time to time party thereto and the Exit Second Lien Administrative Agent, as amended, restated, supplemented or otherwise modified from time to time in accordance with this Agreement and the Intercreditor Agreement.

"Exit Second Lien Facility": the term loan facility provided under the Exit Second Lien Agreement.

"Exit Second Lien Loan Documents": "Loan Documents" under, and as defined in, the Exit Second Lien Agreement.

"Exit Second Lien Obligations": "Obligations" under and as defined in the Exit Second Lien Agreement.

~~"Exit Third Lien Notes": means the "New Secured Notes" as defined in the Plan of Reorganization, but solely to the extent issued pursuant to the Plan of Reorganization.~~

"FATCA": Section 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor provisions thereto that are substantially comparable), including any regulations promulgated thereunder or official interpretations thereof issued after the date of this Agreement.

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal

funds brokers, as published on the next succeeding Business Day by the NYFRB, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by JPMorgan Chase Bank, N.A. from three federal funds brokers of recognized standing selected by it.

"Fee Payment Date": (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Revolving Commitment Period.

"Flood Insurance Laws" ~~means,~~: collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"Foreign Subsidiary": any Subsidiary of the Borrower that is not organized under the laws of the United States of America or any state or territory thereof or the District of Columbia and any Subsidiary of such Subsidiary.

"Foreign Subsidiary Holding Company": any Subsidiary organized under the laws of the United States of America or any state or territory thereof or the District of Columbia, substantially all of the assets of which consist of equity of one or more Subsidiaries that are "controlled foreign corporations" within the meaning of Section 957 of the Code.

"Funding Office": the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

"GAAP": generally accepted accounting principles in the United States of America as in effect as of the Closing Date, including those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession. All ratios and computations based on GAAP contained in this Agreement and the other Loan Documents will be computed in conformity with GAAP. For the avoidance of doubt, all calculations, ratios and computations with respect to leases contained in this Agreement and the other Loan Documents will be computed in conformity with GAAP as in effect as of the Closing Date.

"Governmental Authority": any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Group Members": the collective reference to Holdings, the Borrower and their respective Subsidiaries.

"GSO": GSO Capital Partners LP.

"GSO Entity": GSO or its Affiliates and Approved Funds, including GSO / Blackstone Debt Funds Management LLC, as the context may require.

"Guarantee and Collateral Agreement": ~~the~~that certain Guarantee and Collateral Agreement ~~to be executed and delivered~~, dated as of the date hereof, made by Holdings, the Borrower and each Subsidiary Guarantor, ~~by execution and delivery of an~~in favor of the Administrative Agent for the benefit of the Secured Parties, and each accession, assumption, supplement or joinder thereto~~, substantially in the form of Exhibit A~~.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing Person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantors": the collective reference to Holdings and the Subsidiary Guarantors.

"Holdings": as defined in the preamble hereto.

"Impacted Interest Period": as defined in the definition of "Eurodollar Base Rate".

"Indebtedness": with respect to any Person on any date of determination (without duplication):

(a) the principal of and premium (if any) in respect of indebtedness of such Person for borrowed money;

(b) the principal of and premium (if any) in respect of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(c) the principal component of all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (including reimbursement obligations with respect thereto, except to the extent such letter of credit, bankers' acceptance or other similar instrument relates to a trade payable and any such reimbursement obligation is satisfied within 30 days of incurrence);

(d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property, which purchase price is due after the date of placing such property in service or taking delivery and title thereto, except any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business;

(e) Capital Lease Obligations and all Attributable Indebtedness of such Person;

(f) the principal component or liquidation preference of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary that is not a Subsidiary Guarantor, any Preferred Stock (but excluding, in each case, any accrued dividends);

(g) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided, however, that the amount of such Indebtedness will be the lesser of (a) the fair market value of such assets at such date of determination and (b) the amount of such Indebtedness of such other Persons;

(h) the principal component of Indebtedness of other Persons to the extent guaranteed by such Person (whether or not such items would appear on the balance sheet of the guarantor or obligor);

(i) to the extent not otherwise included in this definition, net obligations of such Person under any Specified Swap Agreement (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such Obligation that would be payable by such Person at such time); and

(j) to the extent not otherwise included in this definition, the amount of obligations outstanding under the legal documents entered into as part of a securitization transaction or series of securitization transactions that would be characterized as principal if such transaction were structured as a secured lending transaction rather than as a purchase outstanding relating to a securitization transaction or series of securitization transactions.

provided, however, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (i) contingent obligations, incurred in the ordinary course of business and not in respect of borrowed money; (ii) deferred or prepaid revenues; or (iii) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller.

"Insolvency": with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property arising under United States multinational or foreign laws or otherwise, including, without limitation, copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, domain names, technology, trade secrets and know-how, all registrations and applications thereof, and all rights to sue at law or in equity for any past, present or future infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercreditor Agreement": the Intercreditor Agreement among the Borrower, the Guarantors, the Administrative Agent, the Exit Second Lien Administrative Agent~~[, the administrative~~

~~agent for the holders of the Exit Third Lien Notes]~~ and the other parties thereto from time to time in substantially the form attached hereto as Exhibit I, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

"Interest Payment Date": (a) as to any ABR Loan, the first Business Day following the last day of each fiscal quarter of the Borrower (or, if an Event of Default is in existence, the last day of each calendar month) to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period and (d) as to any Loan (other than any Revolving Loan that is an ABR Loan), the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 11:00 A.M., New York City time, on the date that is three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period that would extend beyond the Revolving Termination Date;

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

(iv) the Borrower shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

"Interpolated Rate": at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the Eurodollar Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Eurodollar Screen Rate for the longest period for which the Eurodollar Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the Eurodollar Screen Rate for the shortest period (for which that Eurodollar Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

"Investments": as defined in Section 7.6.

"IPO": the issuance or sale by the Borrower or any Relevant Parent of the Borrower of its Voting Stock in an underwritten primary or secondary public offering after the Closing Date pursuant

to an effective registration statement filed with the SEC (whether alone or in connection with a secondary public offering) in accordance with the Securities Act.

"Issuing Lender": each of JPMorgan Chase Bank, N.A. and any other Revolving Lender approved by the Administrative Agent and the Borrower that has agreed in its sole discretion to act as an "Issuing Lender" hereunder, or any of their respective affiliates, in each case in its capacity as issuer of any Letter of Credit. Each reference herein to "the Issuing Lender" shall be deemed to be a reference to the relevant Issuing Lender.

"Kelso": Kelso & Company, L.P.

"Kelso Entity": Kelso or its Affiliates and Approved Funds as the context may require.

"L/C Commitment": $12,000,000.

"L/C Exposure": at any time, the total L/C Obligations. The L/C Exposure of any Revolving Lender at any time shall be its Revolving Percentage of the total L/C Exposure at such time.

"L/C Obligations": at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed pursuant to Section 3.5.

"L/C Participants": the collective reference to all the Revolving Lenders other than the Issuing Lender.

"Lenders": as defined in the preamble hereto; provided, that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include any Conduit Lender.

"Letters of Credit": as defined in Section 3.1(a), including the Existing Letters of Credit.

"Lien": any 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 any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"Liquidity": as of any date of determination, the sum of (i) Unrestricted Cash at such date and (ii) the Total Undrawn Commitments at such date.

"Loan Documents": this Agreement, the Security Documents, the Notes, the Letters of Credit, any other document executed by or on behalf of a Loan Party that is delivered to the Administrative Agent or any of the other Secured Parties in connection with any of the foregoing, and any amendment, waiver, supplement or other modification to any of the foregoing.

"Loan Parties": the Borrower and the Guarantors.

"Loans": the Revolving Loans and the PIK Term Loans.

"Management Investor": the officers, directors, employees and other members of the management of any direct or indirect parent entity, the Borrower or any of its Subsidiaries, or family members or relatives thereof, or trusts or partnerships for the benefit of any of the foregoing, or any of

their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Borrower or its direct or indirect parent entity.

"Marblegate": Marblegate Asset Management, LLC.

"Marblegate Entity": Marblegate or its Affiliates and Approved Funds as the context may require.

"Material Adverse Effect": after giving effect to the entry of the Confirmation Order in each case, excluding any event occurring on or prior to the entry of the Confirmation Order, a material adverse effect on (a) the business, operations, financial condition, assets or liabilities (whether actual or contingent) of Holdings, the Borrower and its Subsidiaries, taken as a whole, (b) the validity and enforceability of this Agreement or the other Loan Documents ~~of~~or the rights and remedies of the Administrative Agent and the Lenders under this Agreement or the other Loan Documents or the ability of the Loan Parties to perform their respective material obligations under this Agreement or the other Loan Documents, (c) the Collateral or the attachment, perfection or priority of any Liens granted pursuant to any Loan Document in the Collateral or (d) the Transactions.

"Materials of Environmental Concern": any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, regulated pursuant to or that could give rise to liability under any Environmental Law, including asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Maximum Liquidity Amount": $23,000,000.

"Moody's": Moody's Investors Services, Inc., and any successor in interest to its investment ratings business.

"Mortgaged Properties": ~~the~~ real properties as to which the Administrative Agent for the benefit of the Lenders shall be granted a Lien pursuant to the Mortgages.

"Mortgages": each of the mortgages and deeds of trust made by any Loan Party in favor of, or for the benefit of, the Administrative Agent for the benefit of the Lenders.

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

"New Money Facility": as defined in the DIP Credit Agreement.

"Net Cash Proceeds": in connection with any Disposition or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of reasonable attorneys', accountants' and investment banking fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Disposition or Recovery Event (other than any Lien pursuant to a Security Document) and other reasonable and customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements).

"Non-Excluded Taxes": with respect to any payment made by any Loan Party under any Loan Document, Taxes, other than Excluded Taxes.

"Non-U.S. Lender": as defined in Section 2.14(e).

"Notes": the collective reference to any promissory note evidencing Loans.

"NYFRB": the Federal Reserve Bank of New York.

"NYFRB Rate": for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received to the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Obligations": the unpaid principal of and interest on (including interest (including interest paid in kind) accruing after the maturity of the Loans and Reimbursement Obligations and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of any Loan Party to the Administrative Agent or to any Lender (or, in the case of Specified Swap Agreements and Specified Cash Management Agreements, any affiliate of any Lender), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit, any Specified Swap Agreement, any Specified Cash Management Agreement or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by any Loan Party pursuant hereto) or otherwise.

"Other Taxes": any and all present or future stamp or documentary taxes or any other excise taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document including any interest, additions to tax or penalties applicable thereto.

"Overnight Bank Funding Rate": for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions (as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

"Owned Real Property": as defined in Section 4.9.

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

"Participant": as defined in Section 10.6(c).

"Participant Register": as defined in Section 10.6(c).

"PBGC": the Pension Benefit Guaranty Corporation referred to and defined in Section 4002 of ERISA and any successor entity performing similar functions.

"Pension Plan": any Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Group Member or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Permitted Dispositions": asset dispositions permitted in accordance with Sections 7.5(d), (f) and (m) involving assets (in a single transaction or series of related transactions) for consideration of $250,000 or more.

"Permitted Investors": the collective reference to (a) the Sponsor Entities and ~~its~~their Control Investment Affiliates and (b) the Management Investors (but only with respect to their "beneficial ownership" (within the meaning of 13d-3 and 13d-5 under the Exchange Act) of up to 7% in the aggregate of the total voting power of the Voting Stock of the Borrower or any direct or indirect parents entity, as the case may be.

"Permitted Liens": (a) Liens for Taxes, assessments and governmental charges or levies to the extent not required to be paid under Section 6.3; (b) Liens imposed by law, materialmen's, mechanics', carriers', workmen's, processors', landlords' and repairmen's Liens and other similar Liens arising in the ordinary course of business securing obligations that (i) are not overdue for a period of more than 60 days or are being contested in good faith and by appropriate proceedings and as to which appropriate reserves are being maintained and (ii) individually or together with all other Permitted Liens outstanding on any date of determination do not materially adversely affect the use of the property to which they relate; (c) pledges or deposits in the ordinary course of business to secure obligations under workers' compensation laws, unemployment insurance or similar legislation or to secure public or statutory obligations; (d) encumbrances, ground leases, easements, rights of way, zoning restrictions, building codes, restrictions, rights of others, and rights or restrictions of record as to the use of real property and other encumbrances on title to real property (including, without limitation, minor defects or irregularities in title and similar encumbrances) or Liens incidental to the conduct of the business of any Person or to the ownership of its properties that do not in the aggregate materially adversely affect the use of such property in the ordinary course of business; (e) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8(h); and (f) Liens on deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, Liens in favor of issuers of letters of credit or bankers' acceptances or similar obligations, and Liens on deposits as security for import or customs duties or for the payment of utility charges or rent, in each case in the ordinary course of business.

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Petition Date": as defined in the recitals hereto.

"PIK Election": as defined in Section 2.9(c).

"PIK Fee Term Loan": as defined in Section 2.19(a).

"PIK Interest Portion": as defined in Section 2.9(c).

"PIK Interest Term Loan": as defined in Section 2.19(b).

"PIK Term Loans": the collective reference to PIK Fee Term Loans and PIK Interest Term Loans. The total aggregate principal amount of the PIK Term Loans on the Closing Date is $[__].

"Plan": any employee benefit plan as defined in Section 3(3) of ERISA, including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Group Member or any ERISA Affiliate is (or if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan of Reorganization" as defined in the recitals hereto.

"Preferred Stock": as applied to the Capital Stock of any corporation, Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends upon liquidation, dissolution or winding up.

"Preopening Costs": "start-up costs" (such term used herein as defined in SOP 98-5 published by the American Institute of Certified Public Accountants) related to the acquisition, opening and organizing of new restaurants, including, without limitation, the cost of feasibility studies, staff training and recruiting and travel costs for employees engaged in such start-up activities.

"Prime Rate": the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City (the Prime Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors).

"Pro Forma Financial Statements": as defined in Section 4.1(a).

"Prohibited Transaction": as defined in Section 406 of ERISA and Section 4975(c) of the Code.

"Projections": as defined in Section 6.2(c).

"Properties": as defined in Section 4.18(a).

"Real Property Lease": all of the leases of real property under which any Loan Party or any of its Subsidiaries is the lessor or the lessee from time to time.

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of Holdings or any of its Subsidiaries, to the extent that such settlement or payment does not constitute reimbursement or compensation for amounts previously paid by Holdings or any of its Subsidiaries in respect of such property or casualty claim or condemnation.

"Register": as defined in Section 10.6(b).

"Regulation U": Regulation U of the Board as in effect from time to time.

"Reimbursement Obligation": the obligation of the Borrower to reimburse the Issuing Lender pursuant to Section 3.5 for amounts drawn under Letters of Credit.

"Release": with respect to any Materials of Environmental Concern, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, depositing, disposing, dispersing, or migrating into or through the environment or within any building, structure or facility or fixture (including the abandonment or discarding of any barrels, containers or other closed receptacles containing any Materials of Environmental Concern.

"Relevant Parent": as defined in Section 8(k).

"Reportable Event": any "reportable event," as defined in Section 4043(c) of ERISA or other regulations issued thereunder, other than those events as to which the thirty day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Pension Plan.

"Required Lenders": at any time, the holders of more than 50% of the sum of (i) the aggregate unpaid principal amount of the PIK Term Loans then outstanding and (ii) the Total Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding.

"Requirement of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation, ~~orders~~order or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer": the chief executive officer, president, chief financial officer, chief restructuring officer, vice president, general counsel, treasurer or controller of the Borrower or any individual designated as a "Responsible Officer" for the purpose of this Agreement by the board of directors of the Borrower, but in any event, with respect to financial matters, the chief financial officer (or Vice President of Finance if the chief financial officer position is vacant), treasurer, or controller of the Borrower.

"Restructuring Support Agreement": as defined in the recitals hereto.

"Revolving Commitment": as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "Revolving Commitment" opposite such Lender's name on Schedule 1.1A or in the Assignment and Assumption pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof.

"Revolving Commitment Period": the period from and including the Closing Date to the Revolving Termination Date.

"Revolving Extensions of Credit": as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding and (b) such Lender's Revolving Percentage of the L/C Obligations then outstanding.

"Revolving Facility": each of the Revolving Commitments and the extensions of credit made thereunder.

"Revolving Lender": each Lender that has a Revolving Commitment or that holds Revolving Loans.

"Revolving Loan Cap": $24,399,525 (which, for the avoidance of doubt, is exclusive of any PIK Term Loans that may be outstanding from time to time).

"Revolving Loans": as defined in Section 2.1(a).

"Revolving Percentage": as to any Revolving Lender at any time, the percentage which such Lender's Revolving Commitment then constitutes of the Total Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender's Revolving Loans then outstanding constitutes of the aggregate principal amount of the Revolving Loans then outstanding, provided, that, in the event that the Revolving Loans are paid in full prior to the reduction to zero of the Total Revolving Extensions of Credit, the Revolving Percentages shall be determined in a manner designed to ensure that the other outstanding Revolving Extensions of Credit shall be held by the Revolving Lenders on a comparable basis. Notwithstanding the foregoing, in the case of Section 2.18 when a Defaulting Lender shall exist, Revolving Percentages shall be determined without regard to any Defaulting Lender's Revolving Commitment.

"Revolving Termination Date": [___][1].

"Roll Up Facility": as defined in the DIP Credit Agreement.

"S&P": Standard & Poor's Financial Services LLC.

"Sanctioned Country": at any time, a country, region or territory which is itself the subject or target of any Sanctions (as of the Closing Date, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

"Sanctioned Person": at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions": all 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 the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

[1] NTD: This will be the date that is 30 months after the Closing Date.

"Secured Parties": collectively the Administrative Agent, each Lender, each other Indemnitee and each other holder of any Obligation of any Loan Party.

"Securities Act": the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Documents": the collective reference to the Guarantee and Collateral Agreement, the Trademark Security Agreement, the Intercreditor Agreement, the Mortgages, any account control agreements and all other security documents hereafter delivered to the Administrative Agent granting or perfecting a Lien on any property of any Person to secure the obligations and liabilities of any Loan Party under any Loan Document.

~~"Secured Parties": collectively the Administrative Agent, each Lender, each other Indemnitee and each other holder of any Obligation of any Loan Party.~~

"Senior Lead Arrangers": as defined in the preamble hereto.

"Solvent" and "Solvency": with respect to Holdings, the Borrower and its Subsidiaries, taken as a whole, (a) the sum of the debt (including contingent liabilities) of Holdings, the Borrower and its Subsidiaries, taken as a whole, does not exceed the present fair saleable value of the present assets of Holdings, the Borrower and its Subsidiaries, taken as a whole; (b) the capital of Holdings, the Borrower and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of Holdings, the Borrower or its Subsidiaries, taken as a whole, contemplated as of the date hereof; and (c) Holdings, the Borrower and its Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts including current obligations beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Specified Cash Management Agreement": any agreement providing for treasury, depositary, purchasing card or cash management services, including in connection with any automated clearing house transfers of funds or any similar transactions between the Borrower or any Guarantor and any Lender or affiliate thereof.

"Specified Collateral": as defined in the Guarantee and Collateral Agreement.

"Specified Swap Agreement": any Swap Agreement in respect of interest rates, currency exchange rates or commodity prices entered into by the Borrower or any Guarantor and any Person that is a Lender or an affiliate of a Lender at the time such Swap Agreement is entered into.

"Sponsor Entities": At any time, Carl Marks, Marblegate, GSO and Kelso and any Carl Marks Entity, GSO Entity, Marblegate Entity and Kelso Entity.

"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 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 Subsidiary or Subsidiaries of the Borrower.

"Subsidiary Guarantor": each Subsidiary of the Borrower other than any Foreign Subsidiary and any Foreign Subsidiary Holding Company.

"Swap 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 or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Swap Agreement"; provided further that no agreement relating to the purchase of food at a fixed price entered into by the Borrower or its Affiliates shall be a "Swap Agreement".

"Taxes": any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Threshold Properties": as defined in Section 6.9(b).

"Total Revolving Commitments": at any time, the aggregate amount of the Revolving Commitments of all Lenders then in effect. The Total Revolving Commitments on the Closing Date is $29,000,000.

"Total Revolving Extensions of Credit": at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

"Total Undrawn Commitments": at any time, the amount, if any, by which the Total Revolving Commitments at such time exceed the Total Revolving Extensions of Credit at such time.

"Trademark Security Agreement": the [ ].

"Transaction Documents": as defined in Section 7.12(a).

"Transactions": with respect to (a) the Borrower, the execution, delivery and performance by the Borrower of its obligations under this Agreement, each other Loan Document to which it is a party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder, and the grant of Liens by the Borrower on Properties pursuant to the Security Documents, (b) each Guarantor, the execution, delivery and performance by such Guarantor of each Loan Document to which it is a party, the guaranteeing of the Obligations and the other obligations under the Guarantee and Collateral Agreement by such Guarantor and such Guarantor's grant of the security interests and provision of collateral thereunder, and the grant of Liens by such Guarantor on Properties pursuant to the Security Documents and (c) all Loan Parties, the transactions contemplated by the Exit Second Lien Loan Documents entered into on the Closing Date and the consummation of any other transaction contemplated hereby or by any other Loan Document or Transaction Document..

"Transferee": any Assignee or Participant.

"Type": as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.

"United States": the United States of America.

"Unmatured Surviving Obligations": Obligations under this Agreement and the other Loan Documents that by their terms survive the termination of this Agreement or the other Loan Documents but are not, as of the date of determination, due and payable and for which no outstanding claim has been made.

"Unrestricted Cash": at any date of determination, the aggregate amount of cash and Cash Equivalents of the Loan Parties not subject to any contractual restriction (other than a contractual restriction imposed by the Loan Documents) on the application thereof and not subject to any Lien (other than (i) Liens created by the Loan Documents, (ii) Liens permitted by Section 7.1(d) and (iii) Liens permitted by Section 7.1(j)).

"Upfront Commitment Fee": 3.00% of the aggregate principal amount of the Revolving Commitments as of the Closing Date.

"Voting Stock" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors, managers or trustees, as applicable, of such Person.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Withdrawal Liability": any liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

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

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP in effect as of the date hereof (provided that, notwithstanding anything to the contrary herein, all accounting or financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar effect) to value any Indebtedness or other liabilities of any Group Member at "fair value", as defined therein), (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets

and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (v) references to agreements (including this Agreement and the other Loan Documents) or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(c) The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

SECTION 2. AMOUNT AND TERMS OF COMMITMENTS

2.1 Revolving Commitments. (a) On the Closing Date, the Existing Loans shall be deemed to be simultaneously repaid under the Existing Facility and made hereunder as revolving loans (the "Closing Date Revolving Loans"). After the Closing Date, subject to the terms and conditions hereof each Revolving Lender severally agrees to make revolving credit loans (including the Closing Date Revolving Loans, the "Revolving Loans") to the Borrower from time to time during the Revolving Commitment Period, in an aggregate principal amount at any one time outstanding (x) which, when added to such Lender's Revolving Percentage of the sum of the L/C Obligations then outstanding, does not exceed the amount of such Lender's Revolving Commitment and (y) which does not exceed the amount of such Lender's Revolving Percentage of the Revolving Loan Cap. During the Revolving Commitment Period, the Borrower may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.2 and 2.9.

(b) The Borrower shall repay all outstanding Loans on the Revolving Termination Date.

2.2 Procedure for Revolving Loan Borrowing. The Closing Date Revolving Loans shall initially be Eurodollar Loans, with an initial Interest Period of one month. After the Closing Date, the Borrower may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day, provided that the Borrower shall give the Administrative Agent irrevocable notice (which notice must be received by the Administrative Agent prior to 11:00 A.M., New York City time, (a) three Business Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, or (b) one Business Day prior to the requested Borrowing Date, in the case of ABR Loans) (provided that any such notice of a borrowing of ABR Loans under the Revolving Facility to finance payments required by Section 3.5 may be given not later than 10:00 A.M., New York City time, on the date of the proposed borrowing), specifying (i) the amount and Type of Revolving Loans to be borrowed, (ii) the requested Borrowing Date and (iii) in the case of Eurodollar Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Period therefor. Except as expressly provided in the first sentence of this section, no Revolving Loans shall be made on the Closing Date. Each borrowing under the Revolving Commitments after the Closing Date shall be in an amount equal to (x) in the case of ABR Loans, $1,000,000 or a whole multiple thereof (or, if the then aggregate Available Revolving Commitments are less than $1,000,000, such lesser amount) and (y) in the case of Eurodollar Loans, $1,000,000 or a whole multiple of $1,000,000 in excess thereof. Upon receipt of any such notice from

the Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each Revolving Lender will make the amount of its pro rata share of each borrowing available to the Administrative Agent for the account of the Borrower at the Funding Office prior to 12:00 Noon, New York City time, on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent crediting the account of the Borrower on the books of such office with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent.

2.3 Commitment Fees, etc. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee for the period from and including the date hereof to the last day of the Revolving Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the date hereof.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in any fee agreements with the Administrative Agent and to perform any other obligations contained therein.

2.4 Voluntary Termination or Reduction of Revolving Commitments. The Borrower shall have the right, upon not less than three Business Days' notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of Revolving Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Loans made on the effective date thereof, the Total Revolving Extensions of Credit would exceed the Total Revolving Commitments. Any such reduction shall be in an amount equal to $1,000,000, or a whole multiple of $500,000 in excess thereof, and shall reduce permanently the Revolving Commitments then in effect.

2.5 Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent no later than 11:00 A.M., New York City time, three Business Days prior thereto, in the case of Eurodollar Loans, and no later than 11:00 A.M., New York City time, one Business Day prior thereto, in the case of ABR Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or ABR Loans; provided, that if a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.15. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with (except in the case of Revolving Loans that are ABR Loans) accrued interest to such date on the amount prepaid. Partial prepayments of Revolving Loans shall be in an aggregate principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof.

2.6 Mandatory Prepayments and Commitment Reductions. (a) The Borrower shall prepay the Revolving Loans to the extent, if any, that the Total Revolving Extensions of Credit exceed the amount of the Total Revolving Commitments; provided that if the aggregate principal amount of Revolving Loans at any time outstanding is less than the amount of such excess (because L/C Obligations constitute a portion thereof, or for any other reason), the Borrower shall, to the extent of the balance of such excess, replace outstanding Letters of Credit and/or deposit an amount in cash in a cash collateral account established with the Administrative Agent for the benefit of the Lenders on terms and conditions satisfactory to the Administrative Agent.

(b) If on any date (i) the Borrower or any of its Subsidiaries shall receive Net Cash Proceeds from any Disposition and (ii) the aggregate amount of Net Cash Proceeds received by the Borrower or any of its Subsidiaries exceeds $1,500,000 (the "Disposition Threshold") since the Closing Date, then 75% of such Net Cash Proceeds in excess of the Disposition Threshold shall be applied on or prior to the date that is five Business Days after the receipt of such Net Cash Proceeds toward the reduction of the Revolving Commitments and the prepayment of the PIK Term Loans as set forth in Section 2.6(d). Solely to the extent required to be paid under Section 6.5, if on any date the Borrower or any of its Subsidiaries shall receive Net Cash Proceeds from any Recovery Event, such Net Cash Proceeds shall be applied on such date toward the reduction of the Revolving Commitments and the prepayment of the PIK Term Loans as set forth in Section 2.6(d).

(c) Beginning with the fiscal month ending January 31, 2018, to the extent that the Borrower's Liquidity exceeds the Maximum Liquidity Amount on the last day of a fiscal month as determined in accordance with Section 7.17(b), the Borrower shall prepay the Revolving Loans in the amount of such excess on the date of such measurement.

(d) Amounts to be applied in connection with Revolving Commitment reductions and prepayments made pursuant to Section 2.6(b) shall be applied, first, to reduce permanently the Revolving Commitments and, second, to the prepayment of the PIK Term Loans. Any such reduction of the Revolving Commitments shall be accompanied by prepayment of the Revolving Loans to the extent, if any, that the aggregate outstanding Total Revolving Extensions of Credit exceed the amount of the Total Revolving Commitments as so reduced, provided that if the aggregate principal amount of Revolving Loans then outstanding is less than the amount of such excess (because L/C Obligations constitute a portion thereof), the Borrower shall, to the extent of the balance of such excess, replace outstanding Letters of Credit and/or deposit an amount in cash in a cash collateral account established with the Administrative Agent for the benefit of the Lenders on terms and conditions satisfactory to the Administrative Agent. The application of any prepayment pursuant to this Section 2.6 shall be made, first, to ABR Loans and, second, to Eurodollar Loans. Each prepayment of the Loans under this Section 2.6 (except in the case of Revolving Loans that are ABR Loans) shall be paid together with any accrued and unpaid interest (other than, for the avoidance of doubt, the PIK Interest Portion, if any, thereon) to such date of prepayment on the amount prepaid.

2.7 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the Business Day preceding the proposed conversion date, provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent prior irrevocable notice of such election no later than 11:00 A.M., New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Required Lenders have determined in its or their sole discretion not to permit such conversions. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no Eurodollar Loan may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not

to permit such continuations, and provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.8 Limitations on Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to $5,000,000 or a whole multiple of $1,000,000 in excess thereof and (b) no more than ten Eurodollar Tranches shall be outstanding at any one time.

2.9 Interest Rates and Payment Dates. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) At the option of the Borrower, in connection with any interest payment, the Borrower may elect to pay a portion of the Applicable Margin payable under Section 2.9(a) or (b) in kind (a "PIK Election")[~~1~~2], which portion (the "PIK Interest Portion") shall not exceed (i) 1.00% during the period commencing on the Closing Date and ending on the date that is twelve months after the Closing Date, (ii) 3.00% during the period commencing on the date that is the first day after the date that is 12 months after the Closing Date and ending on the date that is 18 months after the Closing Date and (iii) 2.00% thereafter; provided that the PIK Election may not be made for interest to be paid on the Revolving Termination Date or on the date of any other repayment or prepayment of any Loan (whether pursuant to a voluntary or mandatory prepayment, acceleration or otherwise). Upon receipt of any PIK Election from the Borrower, the Administrative Agent shall promptly notify each Lender thereof.

(d) (i) If all or a portion of the principal amount of any Loan or Reimbursement Obligation shall not be paid when due after giving effect to any applicable grace period (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to (x) in the case of the Loans, the rate then applicable to ABR Loans under the Revolving Facility plus 2% or (y) in the case of Reimbursement Obligations, the rate applicable to ABR Loans under the Revolving Facility plus 2%, and (ii) if all or a portion of any interest payable on any Loan or Reimbursement Obligation or any commitment fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans plus 2% (or, in the case of any such other amounts that do not relate to the Revolving Facility, the rate then applicable to ABR Loans under the Revolving Facility plus 2%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(e) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (d) of this Section shall be payable from time to time on demand in cash.

[~~1~~2] PIK Election deadline to be confirmed.

2.10 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.11(a).

2.11 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Required Lenders that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give telecopy or telephonic notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made as ABR Loans, (y) any Loans that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans shall be made or continued as such, nor shall the Borrower have the right to convert Loans to Eurodollar Loans.

2.12 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) Each borrowing by the Borrower from the Lenders hereunder (including, for the avoidance of doubt, each deemed borrowing of PIK Term Loans), each payment by the Borrower on account of any commitment fee and any reduction of the Revolving Commitments of the Lenders shall be made pro rata according to the respective Revolving Percentages of the Revolving Lenders.

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on (i) the Revolving Loans shall be made pro rata according to the respective Revolving Percentages of the Revolving Lenders and (ii) on the PIK Term Loans shall be made pro rata according to the respective outstanding principal amounts of the PIK Term Loans of the relevant Lenders.

(c) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to each relevant Lender promptly upon receipt in like funds as received, net of any amounts owing by such Lender pursuant to Section 9.7. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days after such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans, on demand, from the Borrower.

(e) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.12(d), 2.12(e), 3.4(a) or 9.7, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent, or the Issuing Lender to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid, and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case

of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

2.13 Requirements of Law. (a) If any Change in Law, the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject any Lender to any Tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any Application or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes covered by Section 2.14 and the imposition of, or any change in the rate of, any Excluded Taxes imposed on or payable by such Lender);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the Eurodollar Rate; or

(iii) shall impose on such Lender any other condition (excluding Taxes);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender deems to be material, of making, converting into, continuing or maintaining Eurodollar Loans or issuing or participating in Letters of Credit, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that any Change in Law, the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder or under or in respect of any Letter of Credit to a level below that which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than nine months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect.

The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.14 Taxes. (a) Except as required by applicable law, all payments made by or on behalf of any Loan Party under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes. If any applicable law (as determined by the applicable withholding agent in its good faith discretion) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. If such Tax is a Non-Excluded Tax, then the sum payable by the applicable Loan Party shall be increased to the extent necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.14) the amounts received with respect to such payment equal the sum which would have been received as if such withholding or deduction had not been made.

(b) In addition, the Loan Parties shall pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, any Other Taxes.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by a Loan Party, as promptly as possible thereafter such Loan Party shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof. The Loan Parties shall jointly and severally indemnify the Administrative Agent and the Lenders for the full amount of Non-Excluded Taxes and Other Taxes (including Non-Excluded Taxes and Other Taxes imposed on amounts payable under this Section 2.14) and any incremental Taxes, interest or penalties paid or that may become payable by the Administrative Agent or any Lender or required to be withheld or deducted from a payment to the Administrative Agent or any Lender, along with any reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Administrative Agent or any Lender (with a copy to the Administrative Agent), shall be conclusive absent manifest error.

(d) Each Lender shall indemnify the Administrative Agent for the full amount of any Taxes (i) that are attributable to such Lender and that are payable or paid by the Administrative Agent, and (ii) attributable to such Lender's failure to comply with the provisions of Section 10.6(c) relating to the maintenance of a Participant Register, in each case together with all interest, penalties, reasonable costs and expenses arising therefrom or with respect thereto, as determined by the Administrative Agent in good faith. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) Each Lender that is a "United States Person" as defined in Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed copies of U.S. Internal Revenue Service ("IRS") Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal withholding Tax. Each Lender that is not a "United States Person" as defined in Section 7701(a)(30) of the Code (a "Non-U.S. Lender") shall deliver to the Borrower and the Administrative

Agent (i) two properly completed and duly signed copies of IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI or Form W-8IMY (together with any applicable underlying IRS forms) (in each case, or any successor form) claiming complete exemption from, or a reduced rate of, U.S. federal withholding Tax on payments under this Agreement and the other Loan Documents, (ii) in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding Tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a statement substantially in the form of the applicable Exhibit H to the effect that (A) the Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the 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 and two copies of the applicable IRS Form W-8 or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from U.S. federal withholding Tax on payments under this Agreement and the other Loan Documents, or (iii) any other form prescribed by applicable requirements of U.S. federal income Tax 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 requirements of law to permit the Borrower and the Administrative Agent to determine the withholding, deduction or information reporting required to be made. If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of foregoing sentence, "FATCA" shall include any amendments made to FATCA after the date of this Agreement. In addition, each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, deliver to the Borrower and the Administrative Agent any other form or certificate required in order that any payment made under this Agreement or any other Loan Document to the Administrative Agent or any such Lender, as the case may be, may be made free and clear of, and without deduction or withholding for or on account of, any Taxes (or to allow any such deduction or withholding to be made at a reduced rate), provided that in such Lender's sole judgment such delivery would not materially prejudice the legal or commercial position of such Lender. Any forms to be delivered under this paragraph shall be delivered by each Lender on or before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation, to the Lender from which the related participation shall have been purchased) and from time to time thereafter upon the request of the Borrower or the Administrative Agent. In addition, each Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Lender. Each Lender shall promptly notify the Borrower and the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the relevant taxing authorities for such purpose). Notwithstanding any other provision of this Section, a Lender shall not be required to deliver any form pursuant to this Section that such Lender is not legally able to deliver. Notwithstanding the foregoing, the requirements of this paragraph (e) with respect to the delivery of forms shall also apply to the Administrative Agent, and the Administrative Agent shall deliver any forms required by this paragraph (e) directly to the Borrower.

(f) For purposes of determining withholding Taxes imposed under FATCA the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative

Agent to treat) the Obligations as not qualifying as "grandfathered obligations" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(g) If the Administrative Agent or any Lender determines, in its sole discretion in good faith, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to Section 2.13 or this Section 2.14, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under Section 2.13 or this Section 2.14 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to any Loan Party or any other Person.

(h) The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.15 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from Eurodollar Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.16 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.13 or 2.14(a)with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the sole and good faith judgment of such Lender, cause such Lender and its lending office(s) to suffer no unreimbursed economic, or material legal or regulatory disadvantage, and provided, further, that nothing

in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.13 or 2.14(a).

2.17 Replacement of Lenders. The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.13 or 2.14(a), (b) becomes a Defaulting Lender, or (c) does not consent to any proposed amendment, supplement, modification, consent or waiver of any provision of this Agreement or any other Loan Document that requires the consent of each of the Lenders or each of the Lenders affected thereby (so long as the consent of the Required Lenders has been obtained), with a replacement financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (iii) the Borrower shall be liable to such replaced Lender under Section 2.15 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (iv) the replacement financial institution shall be reasonably satisfactory to the Administrative Agent, (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein), (vi) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.13 or 2.14(a), as the case may be, and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

2.18 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.3(a);

(b) the Revolving Commitment and Revolving Extensions of Credit of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.1); provided, that this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby;

(c) if any L/C Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the L/C Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Revolving Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Extensions of Credit plus such Defaulting Lender's L/C Exposure does not exceed the total of all non-Defaulting Lenders' Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent cash collateralize for the benefit of the Issuing Lender only the Borrower's obligations corresponding to such Defaulting Lender's L/C Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 8 for so long as such L/C Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's L/C Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.3(a) with respect to such Defaulting Lender's L/C Exposure during the period such Defaulting Lender's L/C Exposure is cash collateralized;

(iv) if the L/C Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.5(a) and Section 3.3(a) shall be adjusted in accordance with such non-Defaulting Lenders' Revolving Percentages; and

(v) if all or any portion of such Defaulting Lender's L/C Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Lender or any other Lender hereunder, all fees payable under Section 3.3(a) with respect to such Defaulting Lender's L/C Exposure shall be payable to the Issuing Lender until and to the extent that such L/C Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding L/C Exposure will be 100% covered by the Revolving Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.18(c) and participating interests in any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.18(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that the Administrative Agent, the Borrower and the Issuing Lender each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the L/C Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Revolving Percentage.

2.19 PIK Term Loans.

(a) On the Closing Date, the Upfront Commitment Fee shall be paid by deeming such amount as outstanding loans hereunder (such loans, the "PIK Fee Term Loans"). The PIK Fee Term Loans shall initially be Eurodollar Loans, with an initial Interest Period of one month, shall be continued or converted in accordance with Section 2.7 and shall accrue interest in accordance with Section 2.9. The obligation of the Borrower to repay the PIK Fee Term Loans shall be automatically evidenced by this Agreement and, if applicable, any Notes, at the time that such PIK Fee Term Loans are deemed outstanding. Amounts repaid or prepaid on account of the PIK Fee Term Loans may not be reborrowed.

(b) In the event that the Borrower makes a PIK Election, the Borrower shall be deemed to have requested a term loan in an amount equal to the applicable PIK Interest Portion (a "PIK Interest Term Loan") which shall be subject to satisfaction of the conditions precedent set forth in Section 5.2; provided that the Borrower shall give the Administrative Agent irrevocable notice of such PIK Election (which notice must be received by the Administrative Agent prior to 11:00 A.M., New York City time, (a) three Business Days prior to the applicable Interest Payment Date, in the case of Eurodollar Loans, or (b) one Business Day prior to the applicable Interest Payment Date, in the case of ABR Loans), specifying (i) the amount and Type of PIK Interest Term Loans so requested and (ii) in the

case of Eurodollar Loans, the length of the initial Interest Period therefor. The PIK Interest Term Loans shall accrue interest in accordance with Section 2.9 and shall be continued or converted in accordance with Section 2.7. The obligation of the Borrower to repay the PIK Interest Term Loans shall be automatically evidenced by this Agreement and, if applicable, any Notes, at the time that such PIK Interest Term Loans are deemed outstanding. Amounts repaid or prepaid on account of the PIK Interest Term Loans may not be reborrowed.

SECTION 3. LETTERS OF CREDIT

3.1 L/C Commitment. (a) Subject to the terms and conditions hereof, the Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 3.1(a), agrees to issue letters of credit for the account of the Borrower ("Letters of Credit"), including Existing Letters of Credit, which will automatically, without any further action on the part of any Person, be deemed to be Letters of Credit hereunder on the Closing Date, on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date that is five Business Days prior to the Revolving Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause the Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law.

3.2 Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).

3.3 Fees and Other Charges. (a) The Borrower will pay a fee on all outstanding Letters of Credit at a per annum rate equal to the Applicable Margin then in effect with respect to Eurodollar Loans under the Revolving Facility, shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrower shall pay to the Issuing Lender for its own account a fronting fee of 0.25% per annum on the undrawn and unexpired amount of each Letter of Credit, payable quarterly in arrears on each Fee Payment Date after the issuance date.

(b) In addition to the foregoing fees, the Borrower shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

3.4 L/C Participations. (a) The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce the Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in the Issuing Lender's obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Participant agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement (or in the event that any reimbursement received by the Issuing Lender shall be required to be returned by it at any time), such L/C Participant shall pay to the Issuing Lender upon demand at the Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Percentage of the amount that is not so reimbursed (or is so returned). Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against the Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing

(b) If any amount required to be paid by any L/C Participant to the Issuing Lender pursuant to Section 3.4(a) in respect of any unreimbursed portion of any payment made by the Issuing Lender under any Letter of Credit is paid to the Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to the Issuing Lender on demand an amount equal to the product of (i) such amount, times (ii) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to the Issuing Lender, times (iii) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 3.4(a) is not made available to the Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, the Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Facility. A certificate of the Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error.

(c) Whenever, at any time after the Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 3.4(a), the Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by the Issuing Lender), or any payment of interest on account thereof, the Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by the Issuing Lender shall be required to be returned by the Issuing Lender, such L/C Participant shall return to the Issuing Lender the portion thereof previously distributed by the Issuing Lender to it.

3.5 Reimbursement Obligation of the Borrower. If any draft is paid under any Letter of Credit, the Borrower shall reimburse the Issuing Lender for the amount of (a) the draft so paid and (b) any Taxes, fees, charges or other costs or expenses incurred by the Issuing Lender in connection with such payment, not later than 12:00 Noon, New York City time, on the first Business Day immediately following the day that the Borrower receives notice of such draft. Each such payment shall be made to the Issuing Lender at its address for notices referred to herein in Dollars and in immediately available funds. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at the rate set forth in (x) until the first Business Day after the date of the relevant notice, Section 2.9(b) and (y) thereafter, Section 2.9(d).

3.6 Obligations Absolute. The Borrower's obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrower's Reimbursement Obligations under Section 3.5 shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrower and shall not result in any liability of the Issuing Lender to the Borrower.

3.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

3.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 3, the provisions of this Section 3 shall apply.

SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans and issue or participate in the Letters of Credit, Holdings and the Borrower hereby jointly and severally represent and warrant to the Administrative Agent and each Lender that:

4.1 Financial Condition. (a) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the Closing Date and the related pro forma consolidated statements of income, stockholders' equity and cash flows as of and for the twelve-month period ending [September 28, 2016] (including the notes thereto) (the "Pro Forma Financial Statements"), copies of which have heretofore been furnished to each Lender, have been prepared giving

effect to (i) the consummation of Plan of Reorganization and the other transactions contemplated thereby (x) in the case of the balance sheet, as if such events had occurred on such date and (y) in the case of the statements of income, stockholders' equity and cash flows, as if such events had occurred at the beginning of such twelve-month period ended the Closing Date and (ii) the payment of fees and expenses in connection with the foregoing. The Pro Forma Financial Statements have been prepared based on the information available to the Borrower as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the financial position and results of operations and cash flows of the Borrower and its Subsidiaries as of such dates and for such periods, assuming that the events specified in the preceding sentence had actually occurred on such specified dates.

(b) Each of (i) the audited consolidated balance sheets of fiscal years ended July 28, 2013, August 3, 2014, and August 2, 2015, and the related consolidated statements of income and of cash flows for the fiscal years ended on such dates, reported on by and accompanied by an unqualified report from Deloitte & Touche LLP or Grant Thornton LLP, as applicable, and (ii) the unaudited consolidated balance sheets and related statements of income, stockholders' equity and cash flows the Borrower and its subsidiaries for each subsequent fiscal quarter ended at least 60 days prior to the Closing Date, present fairly in all material respects the consolidated financial condition of Holdings and its Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal years then ended. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein). During the period from June 30, 2016, to and including the Closing Date there has been no Disposition by any Group Member of any material part of its business or property, except as may be contemplated in the Confirmation Order and Plan of Reorganization or as may have been implemented pursuant to an order entered by the Bankruptcy Court.

4.2 No Change. After giving effect to the Confirmation Order and the Plan of Reorganization, and since the Closing Date there has been no development or event that has had or would reasonably be expected to have a Material Adverse Effect.

4.3 Existence; Compliance with Law. After giving effect to the Confirmation Order and the Plan of Reorganization, each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law except to the extent that the failure to comply therewith would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. After giving effect to the Confirmation Order and the Plan of Reorganization, each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. After giving effect to the Confirmation Order and the Plan of Reorganization, no consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except (i) consents, authorizations, filings and notices described in Schedule

4.4, which consents, authorizations, filings and notices have been obtained or made and are in full force and effect, (ii) the filings referred to in Section 4.20 and (iii) others which the failure to obtain, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. After giving effect to the Confirmation Order and the Plan of Reorganization, the execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof (a) will not violate any Requirement of Law or any Contractual Obligation of any Group Member, except for any such violation that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect and (b) will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents). No Requirement of Law or Contractual Obligation applicable to the Borrower or any of its Subsidiaries could reasonably be expected to have a Material Adverse Effect.

4.6 Litigation. After giving effect to the Confirmation Order and the Plan of Reorganization, other than the Excluded Litigation, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of any Loan Party, threatened by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, or (b) that would reasonably be expected to have a Material Adverse Effect.

4.7 No Default. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect that would reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.8 Ownership of Property; Liens; Possession Under Leases; Insurance. After giving effect to the Confirmation Order and the Plan of Reorganization:

(a) Each Group Member has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except as permitted by Section 7.1, except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or purported to be conducted.

(b) None of the Borrower or the Subsidiaries are in default under any leases to which it is a party, except for such defaults as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All of the Borrower's or Subsidiaries' leases are in full force and effect, except leases in respect of which the failure to be in full force and effect would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Borrower and each of the Subsidiaries enjoy peaceful and undisturbed possession under any such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) The properties of each Loan Party and its Subsidiaries are insured with reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles (and such insurance retentions) and covering such risks in all material respects as are customarily carried by companies engaged in similar business and owning similar properties in localities where such Loan Party or the applicable Subsidiary operates.

4.9 Location of Real Property and Leased Premises.

(a) Schedule 4.9(a) sets forth a complete and accurate list as of the Closing Date, of all fee owned real property of any Loan Party or any of its Subsidiaries ("Owned Real Property"), showing as of the date hereof the street address, county, or other relevant jurisdiction, state and record owner.

(b) Schedule 4.9(b) sets forth a complete and accurate list as of the Closing Date, of all Real Property Leases under which any Loan Party or any of its Subsidiaries is the lessee, showing as of the date hereof the street address, county or other relevant jurisdiction, state, names of the lessor and lessee, annual rental cost and approximate expiration date thereof.

(c) Schedule 4.9(c) sets forth a complete and accurate list as of the Closing Date, of all Real Property Leases under which any Loan Party or any of its Subsidiaries is the lessor, showing as of the date hereof the street address, county or other relevant jurisdiction, state, names of the lessor and lessee, annual rental cost and approximate expiration date thereof.

Concurrently with the delivery of the financial statements referred to in Section 6.1(a), on an annual basis, the Borrower shall provide the Administrative Agent with updated Schedules 4.9(a), 4.9(b) and 4.9(c).

4.10 Intellectual Property. Except as would not reasonably be expected to have a Material Adverse Effect, each Group Member owns, or is licensed to use, all Intellectual Property used in the conduct of its business as currently conducted. Schedule 4.10 sets forth all of the applications for registration and registered Intellectual Property owned by each Group Member on the Closing Date. Except as would not reasonably be expected to have a Material Adverse Effect, no claim has been asserted and is pending by any Person challenging or questioning the use of any owned Intellectual Property or the validity or effectiveness of any owned Intellectual Property, nor does any Loan Party know of any valid basis for any such claim. Except as would not reasonably be expected to have a Material Adverse Effect, the use of Intellectual Property by each Group Member and the conduct of each of their businesses does not infringe on the rights of any Person.

4.11 Taxes. Except as would not reasonably be expected to have a Material Adverse Effect, each Group Member has filed or caused to be filed all Federal, state and other material Tax returns that are required to be filed and has paid all Taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other Taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member); no Tax Lien has been filed, and, to the knowledge of the Loan Parties, no claim is being asserted, with respect to any such Tax, fee or other charge.

4.12 Federal Regulations. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time

hereafter in effect for any purpose that violates the provisions of the Regulations of the Board or (b) for any purpose that violates the provisions of the Regulations of the Board. No more than 25% of the assets of the Group Members consist of "margin stock" as so defined.

4.13 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of the Loan Parties, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Group Member.

4.14 ERISA. (a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Plan, and Group Member and each of their respective ERISA Affiliates, is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Plans and the regulations and published interpretations thereunder; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) all amounts required by applicable law with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Group Member or any ERISA Affiliate or to which any Group Member or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with ASC Topic 715-60. The present value of all accumulated benefit obligations under each Pension Plan maintained by a Group Member (based on the assumptions used for purposes of ASC Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Pension Plan allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Pension Plans (based on the assumptions used for purposes of ASC Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Pension Plans.

4.15 Investment Company Act; Other Regulations. No Loan Party is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

4.16 Subsidiaries; Equity Interests. Except as disclosed to the Administrative Agent by the Borrower in writing from time to time after the Closing Date, (a) Schedule 4.16 sets forth the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Capital Stock of the Borrower or any Subsidiary, except as created by the Loan Documents and in connection with the Exit Second Lien Facility ~~and Exit Third Lien Notes~~. All issued and outstanding Capital Stock of each of the Loan Parties and each of their respective Subsidiaries are duly authorized, validly issued, fully paid and non-assessable.

4.17 Use of Proceeds. The proceeds of (i) the Closing Date Revolving Loans shall be used to repay (or be deemed to repay) the Existing Loans as contemplated by the Confirmation Order and Plan of Reorganization and (ii) the Revolving Loans other than the Closing Date Revolving Loans and the Letters of Credit, shall be used for general corporate purposes, including to finance the working capital needs of the Borrower and its Subsidiaries.

4.18 Environmental Matters. Except as, in the aggregate, would not reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties owned, leased or operated by any Group Member (the "Properties") do not contain, and have not previously contained, any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or constituted a violation of, or would reasonably be expected to give rise to liability under, any Environmental Law;

(b) no Group Member has received or is aware of any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Properties or the business operated by any Group Member (the "Business"), nor, to the knowledge of Holdings or the Borrower, has any event occurred or does any condition exist that would reasonably be expected to result in any such notice;

(c) Materials of Environmental Concern have not been transported or disposed of from the Properties or in connection with the Business in violation of, or in a manner or to a location that would reasonably be expected to give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of at, on or under any of the Properties in violation of, or in a manner that would reasonably be expected to give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Loan Parties, threatened, under any Environmental Law to which any Group Member is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or in connection with the Business;

(e) there has been no Release or threat of Release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that would reasonably be expected to give rise to liability under Environmental Laws, or interfere with continued operation at, or impair the fair salable value of the Properties;

(f) the Properties and all Group Member operations at the Properties or in connection with the Business are in compliance with all, and have not violated any applicable Environmental Laws, and there is no contamination at, under or migrating from the Properties or violation of any Environmental Law with respect to the Properties or the Business; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws.

4.19 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document or any other document, certificate or statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or, when taken as a whole with other information so furnished, omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The financial projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, and no

assurance can be given that any particular Projections will be realized and that actual results may differ and such differences may be material. There is no fact known to any Loan Party that would reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

4.20 Security Documents. The Guarantee and Collateral Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock and Pledged Notes (if any) (each as described and defined in the Guarantee and Collateral Agreement), when stock certificates representing such Pledged Stock and promissory notes representing such Pledged Notes are delivered to the Administrative Agent (together with a properly completed and signed stock power, note power or endorsement, as applicable), and in the case of the other Collateral (other than Specified Collateral) described in the Guarantee and Collateral Agreement, when financing statements and other filings specified on Schedule 4.20(a) in appropriate form are filed in the offices specified on Schedule 4.20(a), the ~~Guarantee and Collateral Agreement~~Administrative Agent (on behalf of the Secured Parties) shall ~~constitute~~have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations (as defined in the Guarantee and Collateral Agreement), in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Liens permitted by Section 7.1).

4.21 Solvency. As of the date of the initial borrowing under this Agreement and after giving effect to the Confirmation Order and the Plan of Reorganization, Holdings, the Borrower, and its Subsidiaries, taken as a whole, are Solvent.

4.22 EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

4.23 Insurance. The properties of the Loan Parties and their respective Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Person operates. Schedule 4.23 sets forth a description in reasonable detail of all insurance maintained by any Loan Party as of the Closing Date.

4.24 Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person. None of (a) the Borrower, any Subsidiary or to the knowledge of the Borrower or such Subsidiary any of their respective directors, officers or employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Credit Agreement; Guarantee and Collateral Agreement. The Administrative Agent shall have received:

(i) this Agreement, executed and delivered by the Administrative Agent, Holdings, the Borrower, each other Loan Party, and each Person listed on Schedule 1.1A;

(ii) the Guarantee and Collateral Agreement, executed and delivered by each Loan Party and the Administrative Agent;

(iii) the Intercreditor Agreement, executed and delivered by each party thereto;

(iv) the Trademark Security Agreement, executed and delivered by each party thereto.

(v) the Agent Fee Letter, executed and delivered by the Borrower and the Administrative Agent;

(b) Bankruptcy Court Documentation. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall have become a final order and shall not have been stayed, reversed, vacated, amended, supplemented or otherwise modified in any manner that would reasonably be expected to adversely affect the interests of the Administrative Agent, the Senior Lead Arrangers or the Lenders and the Confirmation Order shall have *inter alia* authorized and approved the Loan Parties to execute, deliver and perform under the Loan Documents. The Plan of Reorganization and all transactions contemplated therein or in the Confirmation Order to occur on the effective date of the Plan of Reorganization shall have been (or concurrently with the occurrence of the Closing Date, shall be) substantially consummated in accordance with the terms thereof and in compliance with applicable law and the Bankruptcy Court and regulatory approvals.

(c) Debtor-In Possession Financing; Additional Financing. The Borrower shall have received debtor-in-possession financing under the DIP Facility, the proceeds of the New Money Facility shall have been contributed to the Borrower following the approval of the Bankruptcy Court of the DIP Facility in an amount not less than $25,000,000 and additional new money financing in an amount not less than $3,500,000 shall have been provided to the Borrower in cash under the Exit Second Lien Facility. In addition, claims under the DIP Facility shall have been (or concurrently with the Closing Date, shall be) converted to claims under the Exit Second Lien Facility, as set forth in the Confirmation Order and Plan of Reorganization.

(d) Exit Second Lien Facility. The conditions to the effectiveness of the Exit Second Lien Agreement and the Exit Second Lien Loan Documents shall have been, or shall substantially concurrently with the occurrence of the Closing Date be, satisfied or waived.

(e) Liquidity; No Other Indebtedness; Lien Release. As of the Closing Date (i) the Loan Parties shall have aggregate Liquidity of not less than $5,000,000 and (ii) neither the Loan Parties nor any of their respective Subsidiaries shall have any Indebtedness outstanding other than Indebtedness

outstanding under this Agreement, the Exit Second Lien Facility~~, the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~ and as otherwise contemplated by the Confirmation Order and Plan of Reorganization and Indebtedness permitted pursuant to Section 7.2, and the Administrative Agent shall have received evidence of the foregoing clauses (i) and (ii) reasonably satisfactory to it, including but not limited to a written certification from a Responsible Officer of each applicable Loan Party and if necessary, executed payoff letters or termination or release documents. The Administrative Agent shall also have received duly executed (if applicable) UCC-3 termination statements and other termination or release documents evidencing the termination of all Liens securing Indebtedness not permitted to be outstanding pursuant to the immediately preceding sentence.

(f) Restructuring Support Agreement. The Restructuring Support Agreement shall be in full force and effect and no Termination Event (as defined therein) shall have occurred thereunder, except as may occur as a result of the occurrence of the Effective Date (as defined in the Plan of Reorganization) of the Plan of Reorganization.

(g) Holdings Financial Statements. The Lenders shall have received ~~The~~the financial statements described in Section 4.1(b).

(h) Loan Party Financial Statements. The Lenders shall have received the Pro Forma Financial Statements.

(i) Lien Searches. The Administrative Agent shall have received the results of a recent Lien search with respect to each Loan Party, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 7.1 or Liens to be discharged on or prior to the Closing Date pursuant to documentation satisfactory to the Administrative Agent.

(j) Fees. (i) The Senior Lead Arrangers, Lenders and the Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of Simpson Thacher & Bartlett, LLP, as primary legal counsel, Richards, Layton & Finger, as Delaware legal counsel, and CDG Group, LLC, as financial advisor), on or before the Closing Date and (ii) the Borrower shall have paid to the Administrative Agent for the account of each Revolving Lender the Upfront Commitment Fee, which shall be deemed to be paid in accordance with Section 2.19.

(k) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a closing certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C and (ii) a secretary's certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit D, with appropriate insertions and attachments, including the certificate of incorporation of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party and the bylaws or other comparable governing documents of such Loan Party and (iii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(l) Solvency Certificate. The Administrative Agent shall have received a certificate dated the Closing Date in the form attached hereto as Exhibit J, and signed by the Chief Financial Officer (or Vice President of Finance if the Chief Financial Officer position is vacant) of Holdings certifying that Holdings and its Subsidiaries are Solvent on a consolidated basis after giving effect to the Confirmation Order and the Plan of Reorganization and the transactions contemplated hereby and thereby~~;~~.

(m) Insurance. The Administrative Agent shall have received a certificate of insurance coverage of the ~~Borrower~~Loan Parties evidencing that the ~~Borrower is~~Loan Parties are carrying

insurance satisfying the requirements of Section [__] of the Guarantee and Collateral Agreement, together with endorsements naming the Administrative Agent, on behalf of the Secured Parties, as additional insured or lender's loss payee, as the case may be, under all such insurance policies.

(n) Legal Opinions. The Administrative Agent shall have received executed legal opinions from Delaware, Kansas, New York, Tennessee, and Texas counsel to the Loan Parties and their respective Subsidiaries. Each such legal opinion shall cover such other matters incident to the transactions contemplated by this Agreement as are customary for similar financings.

(o) Pledged Stock; Stock Powers; Pledged Notes. The Administrative Agent shall have received (i) the certificates representing the shares of Capital Stock pledged pursuant to the Guarantee and Collateral Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Guarantee and Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(p) Filings, Registrations and Recordings. Other than the Mortgages, each document (including any Uniform Commercial Code financing statement) required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral (other than Specified Collateral) described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.1), shall be in proper form for filing, registration or recordation; provided, that, to the extent any security interest in any Collateral is not or cannot be provided or perfected on the Closing Date (other than the grant and perfection of security interests (i) in assets located in any state of the United States or the District of Columbia with respect to which a Lien may be perfected solely by the filing of a financing statement under the Uniform Commercial Code or (ii) in Capital Stock with respect to which a lien may be perfected by the delivery of a stock certificate) after the Loan Parties' use of commercially reasonable efforts to do so or without undue burden or expense, then the provision and or perfection of a security interest in any such Collateral shall not constitute a condition precedent to the availability of the Revolving Facility on the Closing Date so long as the applicable Loan Party delivers or causes to be delivered such documents and instruments.

(q) Chief Restructuring Officer. A chief restructuring officer (or officers) acceptable to the Lenders, and with powers and responsibilities previously disclosed to the Lenders, shall have been appointed by Holdings. The Lenders hereby acknowledge that the appointment of Mackinac Partners, LLC's Keith Maib as chief restructuring officer of finance and Mackinac Partners, LLC's Nishant Machado as chief restructuring officer of operations is acceptable to the Lenders.

(r) Approvals; No Conflicts. All governmental and third party approvals (including by landlords', shareholders and any other consents) necessary in connection with the transactions contemplated by the Confirmation Order and Plan of Reorganization, the continuing operations of the Group Members and the transactions contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on such transactions or the financing contemplated hereby.

(s) Litigation. There are no actions, suits, investigations or proceedings by or before any arbitrator or Governmental Authority pending or threatened against any Group Member that purports to materially and adversely affect the consummation of the Plan of Reorganization, or that could have a

Material Adverse Effect on the Loan Parties, taken as a whole, the consummation of the Plan of Reorganization or any other transaction contemplated hereby, or on the ability of any Loan Party to perform its obligations under the Loan Documents.

(t) USA PATRIOT Act. The Administrative Agent shall have received, at least five day prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT ACT.

(u) Closing Date. The Closing Date shall have occurred on or prior to November [14], 2016.

For the purpose of determining compliance with the conditions specified in this Section 5.1, each Lender that has signed this Agreement shall be deemed to have accepted, and to be satisfied with, each document or other matter required under this Section 5.1 unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

5.2 Conditions to Each Extension of Credit. The agreement of each Lender to make any extension of credit requested to be made by it on any date (including any PIK Interest Term Loans), other than any extension of credit on the Closing Date, is subject to the satisfaction of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects (and in all respects if such representation and warranty is qualified by materiality) on and as of such date as if made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct as of such earlier date).

(b) No Default. No Default or Event of Default (including, without limitation, under Section 7.17) shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

(c) Each borrowing (or deemed borrowing) by and issuance (or deemed issuance) of a Letter of Credit on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 5.2 have been satisfied.

SECTION 6. AFFIRMATIVE COVENANTS

~~Holdings and the Borrower~~Each Loan Party hereby jointly and severally ~~agree~~agrees that, so long as the Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, each ~~of Holdings and the Borrower~~Loan Party shall and shall cause each of its Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent and each Lender:

(a) as soon as available, but in any event not later than 90 days after the end of each fiscal year of the Borrower (or, in the case of the fiscal year of the Borrower ending December 28, 2016, ~~120~~150 days), a copy of the audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income and of

cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a qualification arising out of the scope of the audit, by Grant Thornton LLP or other independent certified public accountants of nationally recognized standing; and

(b) as soon as available, but in any event not later than 45 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower (or, in the case of the first quarterly period of the fiscal year of the Borrower ending January 3, 2018, 60 days) the unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer as fairly stating in all material respects the consolidated financial position, results of operations and cash flow of ~~[Holdings]~~the Borrower and its Subsidiaries as at the dates indicated and for the periods indicated in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (subject to normal year-end audit adjustments and the absence of footnote disclosure).

All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods. The ~~Borrower~~Loan Parties will be deemed to have satisfied the requirements of this Section and of Sections 6.2(d) and (e) if either the Borrower or Holdings files with, or provides to, the SEC such financial statements, reports, documents and information of the types so required, in each case within the applicable time periods.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and each Lender (or, in the case of clause (g), to the relevant Lender):

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1 or (solely with respect to clause (i) and (ii)(x) below) Section 6.2(h), (i) a certificate of a Responsible Officer stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) in the case of quarterly or annual financial statements (and, in the case of clause (x), monthly financial statements), (x) a Compliance Certificate containing all information and calculations necessary for determining compliance by the ~~Borrower~~Loan Parties with Section 7.17 as of the last day of the fiscal month, fiscal quarter or fiscal year of the Borrower, as the case may be, and (y) to the extent not previously disclosed to the Administrative Agent, (1) a description of any change in the jurisdiction of organization of any Loan Party, (2) a list of any Intellectual Property issued, registered or for which an application is pending which is acquired, by any Loan Party and (3) a description of any Person that has become a Group Member, in each case since the date of the most recent report delivered pursuant to this clause (y) (or, in the case of the first such report so delivered, since the Closing Date);

(c) as soon as available, and in any event no later than 90 days after the end of each fiscal year of the Borrower, a detailed quarterly consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of each fiscal quarter of the following fiscal year, the related consolidated statements of projected cash flow and projected income and a description of the underlying assumptions applicable thereto), and, as soon as

available, significant revisions, if any, of such budget and projections with respect to such fiscal year (collectively, the "Projections"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and that actual results during the period or periods covered by such Projected may differ from the projected results, and such differences may be material);

(d) within 45 days after the end of each fiscal quarter of the Borrower and 90 days after the end of each fiscal year of the Borrower (or such extended periods as set forth in Sections 6.1(a) or (b), as applicable), a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, as compared to the portion of the Projections covering such periods and to the comparable periods of the previous year;

(e) within 10 days after the same are sent, copies of all financial statements and reports that Holdings or the Borrower provides to the holders of any class of its debt securities or public equity securities and, within five days after the same are filed, copies of all financial statements and reports that Holdings or the Borrower may make to, or file with, the SEC;

(f) promptly following receipt by a Responsible Officer thereof, copies of (i) any documents described in Section 101(k) of ERISA that any Group Member or any ERISA Affiliate may request with respect to any Multiemployer Plan, (ii) any notices described in Section 101(l) of ERISA that any Group Member or any ERISA Affiliate may request with respect to any Multiemployer Plan or (iii) any plan funding notices described in Section 101(f) of ERISA with respect to any Pension Plan or any Multiemployer Plan provided to or received by any Group Member or ERISA Affiliate; provided, that if the relevant Group Member or ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, such Group Member or the ERISA Affiliate shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof;

(g) promptly, such additional financial and other information (i) as any Lender may from time to time reasonably request or (ii) that is provided to the lenders under the Exit Second Lien Agreement in their capacities as lenders under the Exit Second Lien Agreement;

(h) as soon as available, but in any event not later than 30 days after the end of each fiscal month of the Borrower ~~[~~(or, in the case of each fiscal month that ends prior to or on June 28, 2017, 45 days)~~]~~ the balance sheet of the Borrower and its consolidated ~~subsidiaries~~Subsidiaries as of the end of such month, the unaudited preliminary consolidated statement of cash flows of the Borrower and its consolidated Subsidiaries as at the end of such month, the related unaudited preliminary consolidated statements of income for such month, the Borrower's key performance indicators of the Borrower and its consolidated Subsidiaries for such month and the addbacks and deductions to EBITDA for such month (which information shall be presented in a form consistent with the information delivered to the Administrative Agent under the Existing Facility (or such other form acceptable to the Administrative Agent), in each case, as customarily prepared by the Borrower for its internal use;

(i) as soon as available, but in any event not later than three Business Days after the end of every fourth fiscal week of the Borrower, the Borrower's 26-week liquidity forecast, as customarily prepared by the Borrower for its internal use; provided that, as soon as available, but in any event not later than November 16, 2016, the Borrower shall deliver its 26-week liquidity forecast for the fiscal week ended May 17, 2017; and

(j) as soon as available, but in any event not later than three Business Days after the end of each fiscal week of the Borrower, beginning with the week ended [November 16], 2016, a cash flow variance report including a variance report of the cash flow forecast compared to actual results (i) of the applicable week (which is based on information through the immediately preceding week) and (ii) on a cumulative basis (for the then cumulative period); provided that the Borrower's obligation to provide reporting pursuant to this subsection (j) shall be suspended for any week for which the most recently reported Consolidated EBITDA exceeds $25,000,000 as measured on a trailing twelve months' basis.

6.3 Payment of Obligations. Pay and discharge before the same shall become delinquent, (i) all federal, state income and franchise and other material Taxes, assessments and governmental charges or levies imposed upon it or upon its property and (ii) all lawful claims that, if unpaid, might by law become a Lien upon its property; provided, however, that the Borrower or its Subsidiaries shall not be required to pay or discharge any such Tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves in accordance with GAAP are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable.

6.4 Maintenance of Existence; Compliance. (a)(i) Preserve, renew and keep in full force and effect the organizational existence of ~~the Borrower and Holdings~~such Loan Party and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and except, in each case of clause (ii) above, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Maintain and preserve in all material respects, all property used or useful and necessary in its business in good working order and condition, ordinary wear and tear and damage by casualty and condemnation excepted and except for such failure to so maintain which would not reasonably be expected to have a Material Adverse Effect, (b) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts (with such deductibles and self-insured retentions) and against at least such risks (but including in any event public liability, product liability, business interruption and hazards) as are usually insured against in the same general area by companies engaged in the same or a similar business, and (c) ~~All~~all losses shall be adjusted by the Borrower with the insurance companies. So long as no Event of Default has occurred and is continuing, all insurance proceeds and all awards and proceeds of any condemnation or other proceedings with respect to any property of the Loan Parties shall be collected by or on behalf of the applicable Loan Party, and applied by the applicable Loan Party to restore or replace the related property within (x) one hundred eighty (180) days following the receipt of such proceeds or awards or (y) two hundred seventy (270) days following the receipt of such proceeds or awards to the extent such Loan Party enters into a definitive contract, commitment or other agreement providing for the restoration or replacement of such related property within one hundred eighty (180) days following the receipt of such proceeds or awards; provided, that such Loan Party shall give written notice to the Administrative Agent within [__] following the occurrence of such event giving rise to such proceeds and award. If an Event of Default has occurred and is continuing, any such proceeds and awards with respect to any Collateral or property subject to a Mortgage shall be applied in accordance with the Guarantee and Collateral Agreement. If any portion of any property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the Flood Insurance Laws, then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to

comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws, (ii) cooperate with the Administrative Agent and provide ~~in-formation~~information reasonably required by the Administrative Agent to comply with the Flood Insurance Laws and (iii) deliver to the Administrative Agent evidence of such compliance in form and ~~sub-stance~~substance reasonably acceptable to the Administrative Agent, including, without limitation, evidence of annual renewals of such insurance.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct entries in all material respects in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, (b) permit representatives of the Administrative Agent or any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records upon reasonable prior notice at any reasonable time during normal business hours without interrupting business operations and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and employees of the Group Members and with their independent certified public accountants and (c) upon request of the Administrative Agent or the Required Lenders, upon reasonable prior notice at any reasonable time during normal business hours, participate in telephonic conferences with the Lenders to discuss the business, operations, properties and financial and other condition of the Loan Parties; provided that (i) to the extent that the Consolidated EBITDA of the Borrower as measured on a trailing 12 months' basis is less than $25,000,000, the number of such telephonic conferences shall be limited to one per month and (ii) to the extent that the Consolidated EBITDA of the Borrower as measured on a trailing 12 months' basis is greater than $25,000,000, the number of such telephonic conferences shall be limited to one per quarter.

6.7 Notices. Promptly after a Responsible Officer obtains knowledge thereof, give notice to the Administrative Agent and each Lender of:

(a) the occurrence of any Default or Event of Default;

(b) any litigation or proceeding affecting any Group Member (including in respect of any non-compliance with Environmental Laws) (i) in which the amount involved is $1,000,000 or more and not covered by insurance, (ii) in which injunctive or similar relief is sought or (iii) which relates to any Loan Document;

(c) the occurrence of any ERISA Event that, alone or together with any ERISA Events that have occurred, would reasonably be expected to result in material liability of any Group Member or any of its ERISA Affiliates, either individually or in the aggregate, as soon as possible and in any event within 10 days after the Borrower knows or has reason to know thereof; ~~and~~

(d) any Release of Materials of Environmental Concern at any Property that would reasonably be expected to result in any loss or liability of $~~[~~1,000,000~~]~~ or more; and

(e) any development or event that has had or would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

6.8 Environmental Laws. (a) Comply in all material respects with, and use reasonable best efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply in all material respects with and maintain, and use reasonable best efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws; provided, however, that neither Holdings nor Borrower shall be required to undertake any investigations, studies, sampling, testing or remedial, removal or other actions to the extent such actions are being contested in good faith pursuant to proper proceedings, appropriate reserves are being maintained with respect to such circumstances, and the outcome of such contest would not reasonably be expected to result in a Material Adverse Effect.

(c) Promptly provide the Lenders with a Phase I Environmental Site Assessment report reasonably acceptable to the Administrative Agent for (i) any Owned Real Property, and (ii) any real property (whether owned or leased by any Group Member) where the Administrative Agent reasonably believes that a Release of Materials of Environmental Concern has occurred that would reasonably be expected to result in a loss or liability of $1,000,000 or more, in each case to the extent that the Loan Parties or their Subsidiaries conduct or cause to be conducted such Phase I Environmental Site Assessment.

6.9 Additional Collateral, etc. (a) With respect to any property acquired after the Closing Date by any Group Member (other than (w) Excluded Property (as defined in the Guarantee and Collateral Agreement), (x) any property described in paragraph (b), (c) or (d) below, (y) any property subject to a Lien expressly permitted by Section 7.1(d) and (z) property acquired by any Foreign Subsidiary or Foreign Subsidiary Holding Company) as to which the Administrative Agent, for the benefit of the Lenders, does not have a perfected Lien, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent deems necessary or advisable to grant to the Administrative Agent, for the benefit of the ~~Lenders~~Secured Parties, a security interest in such property and (ii) take all actions necessary or advisable to grant to the Administrative Agent, for the benefit of the ~~Lenders~~Secured Parties, a perfected first priority (subject to Liens permitted by Section 7.1) security interest in such property (subject to limitations on perfection of Specified Collateral as set forth in the Guarantee and Collateral Agreement), including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent.

(b) With respect to (i)(A) any fee interest in any individual real property acquired after the Closing Date by any Group Member having a value (based on the purchase price plus actual improvement costs) of at least $250,000 and (B) owned by such Group Member for 12 months (individually and collectively, the "Threshold Properties") or (ii) to the extent that the aggregate value of all real property owned by any Group Member (other than any Foreign Subsidiary or Foreign Subsidiary Holding Company) exceeds $500,000 (based on the purchase price plus actual improvement costs)~~; provided, however, that this Section 6.9(b) will not apply to any real property acquired by any Foreign Subsidiary or Foreign Subsidiary Holding Company~~, as soon as practicable, but in any event within 90 days from the date the interest in such real property meets the requirements of clauses (i) or (ii) above, as applicable (W) execute and deliver a first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) Mortgage, in favor of the Administrative Agent,

for the benefit of the ~~Lenders~~Secured Parties, covering such real property, (X) if requested by the Administrative Agent, provide the Lenders with (1) title and extended coverage insurance covering such real property in an amount at least equal to 110% of the estimated value (based on the purchase price plus actual improvement costs) of such real property as well as a current ALTA survey thereof, together with a surveyor's certificate, (2) any consents or estoppels reasonably deemed necessary or advisable by the Administrative Agent in connection with such Mortgage and (3) to the extent available, a Phase I Environmental Site Assessment, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, (Y) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent and (Z) (a) a "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each such property; and (b) in the event any such property is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area, (x) a notice about special flood hazard area status and flood disaster assistance, duly executed by the Borrower, (y) evidence of flood insurance with a financially sounds and reputable insurer, naming the Administrative Agent, as mortgagee, in an amount and otherwise in form and substance reasonably satisfactory to the Administrative Agent, and (z) evidence of the payment of premiums in respect thereof in form and substance reasonably satisfactory to the Administrative Agent; provided, however, that this Section 6.9(b) will not apply to any real property acquired by any Foreign Subsidiary or Foreign Subsidiary Holding Company.~~.~~

(c) With respect to any new Subsidiary (other than any Foreign Subsidiary or Foreign Subsidiary Holding Company) created or acquired after the Closing Date by any Group Member, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent deems necessary or advisable to grant to the Administrative Agent, for the benefit of the ~~Lenders~~Secured Parties, a perfected first priority security interest (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) in the Capital Stock of such new Subsidiary that is owned by any Group Member, (ii) deliver to the Administrative Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, (iii) cause such new Subsidiary (A) to become a party to this Agreement and the Guarantee and Collateral Agreement, (B) to take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the ~~Lenders~~Secured Parties a perfected first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) security interest in the Collateral described in the Guarantee and Collateral Agreement with respect to such new Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent and (C) to deliver to the Administrative Agent certificates of such Subsidiary, substantially in the forms of Exhibit C and Exhibit D, with appropriate insertions and attachments, and (iv) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(d) With respect to any new Foreign Subsidiary or Foreign Subsidiary Holding Company created or acquired after the Closing Date by any Group Member (other than by any Group Member that is a Foreign Subsidiary or a Foreign Subsidiary Holding Company), promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent deems necessary or advisable to grant to the Administrative Agent, for the benefit of the Lenders, a perfected first priority security interest in the Capital Stock of such new Subsidiary that is owned by any such Group Member (provided that in no event shall more than 66% of the total outstanding voting Capital Stock of any such new Subsidiary be required to be so pledged), (ii)

deliver to the Administrative Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, and take such other action as may be necessary or, in the opinion of the Administrative Agent, desirable to perfect the Administrative Agent's security interest therein, and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(e) ~~Without limitation of~~Subject to, but without limiting any provision in the Intercreditor Agreement, if any lender with respect to any Exit Second Lien Obligations or Exit Second Lien Loan Documents, receives any additional guaranty (other than a limited guaranty by any Lender, who is a holder of Capital Stock of Holdings or its direct or indirect parent, of Exit Second Lien Obligations) or other form of credit support (including any additional borrower) or any additional collateral agreement executed by any Loan Party or any of its Subsidiaries in connection with, or after the date of, the incurrence thereof, without limitation of any Event of Default that may arise as a result thereof, the Loan Parties shall, concurrently therewith, cause the same to be granted to the Administrative Agent, for the benefit of the Secured Parties. If any of the Exit Second Lien Obligations or Exit Second Lien Loan Documents are amended, supplemented or otherwise modified to add any event of default, financial covenant, negative covenant or affirmative covenant or any event of default, financial covenant, negative covenant or affirmative covenant set forth therein is amended or otherwise modified to make such default trigger, financial covenant or other covenant more restrictive or onerous on any Loan Party or Subsidiary, at the request of the Required Lenders (or the Administrative Agent at the request of the Required Lenders), the Loan Parties shall promptly amend this Agreement and the other Loan Documents at the same time (or at such later time as may be requested by the Required Lenders (or the Administrative Agent at the request of the Required Lenders) to incorporate such changes into the Loan Documents, and with respect to any event of default, financial covenant, negative covenant or affirmative covenant, so as to maintain the same percentage difference between such event of default, financial covenant or negative covenant in the Exit Second Lien Loan Documents and the Loan Documents (with any new event of default, financial covenant, negative covenant or affirmative covenant added to have the same percentage cushion between the Exit Second Lien Loan Documents and the Loan Documents that exists on the Closing Date and using the same methodology of calculation).

6.10 Compliance with Laws. Comply with all Requirements of Law except to the extent that the failure to comply therewith would not, in the aggregate, reasonably be expected to ~~have~~result in a Material Adverse Effect. The ~~Borrower~~Loan Parties will maintain in effect and enforce policies and procedures designed to ensure compliance by ~~the Borrower~~each Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

6.11 Chief Restructuring Officer. ~~Maintain~~For so long as a chief executive officer acceptable to the Lenders shall not have been appointed or otherwise retained by the Borrower, maintain a chief restructuring officer (or officers) acceptable to the Lenders and with substantially the same powers and responsibilities as it or they had on the Closing Date (or such different powers and responsibilities as may be approved by the Administrative Agent and the Required Lenders). The Lenders hereby acknowledge that the appointment of Mackinac Partners, LLC's Keith Maib as chief restructuring officer of finance and Mackinac Partners, LLC's Nishant Machado as chief restructuring officer of operations is acceptable to the Lenders.

SECTION 7. NEGATIVE COVENANTS

~~The Borrower~~Each Loan Party hereby agrees that, ~~and solely with respect to Section 7.12, Holdings hereby agrees~~ that, so long as the Revolving Commitments remain in effect, any Letter of Credit remains outstanding or any Loan or other amount (other than Unmatured Surviving Obligations) is owing to any Lender or the Administrative Agent hereunder, the Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly~~, and solely with respect to Section 7.12, Holdings shall not~~:

7.1 Liens, Etc. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Lien on or with respect to any of its properties (including, without limitation, accounts) whether now owned or hereafter acquired, or sign or file or suffer to exist, or permit any of its Subsidiaries to sign or file or suffer to exist, under the Uniform Commercial Code of any jurisdiction, a financing statement that names any Loan Party or any of its Subsidiaries as debtor, or sign or suffer to exist, or permit any of its Subsidiaries to sign or suffer to exist, any security agreement authorizing any secured party thereunder to file such financing statement, or assign, or permit any of its Subsidiaries to assign, any accounts or other right to receive income, except:

(a) Liens created under the Loan Documents;

(b) Permitted Liens;

(c) Liens existing on the date hereof and described on Schedule 7.1(c) hereto;

(d) Liens on the Collateral securing the Exit Second Lien Facility ~~and the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization), in each case,~~ to the extent the Indebtedness in respect thereto is permitted hereunder and subject to the Intercreditor Agreement;

(e) purchase money Liens upon or in assets acquired or held by the Borrower or any of its Subsidiaries to secure the purchase price of such property or equipment or to secure Indebtedness incurred solely for the purpose of financing the acquisition, construction or improvement of any such property or equipment to be subject to such Liens, or Liens existing on any such property or equipment within 180 days of acquisition, or extensions, renewals or replacements of any of the foregoing; provided, however, that no such Lien shall extend to or cover any property other than the property or equipment being acquired, constructed or improved, and no such extension, renewal or replacement shall extend to or cover any property not theretofore subject to the Lien being extended, renewed or replaced; and provided further that the aggregate principal amount of the Indebtedness secured by Liens permitted by this clause (d) shall not exceed the amount permitted under Section 7.2(d)(ii) at any time outstanding;

(f) Liens arising in connection with Capital Lease Obligations of the Borrower or any of its Subsidiaries permitted under Section 7.2(d); provided that no such Lien shall extend to or cover any Collateral or assets other than the assets subject to such Capital Lease Obligations;

(g) the replacement, extension or renewal of any Lien permitted by clause (c) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Indebtedness secured thereby provided that (i) such replacement, extension or renewal does not extend to any additional property other than (x) after-acquired property that is affixed or incorporated into the property covered by such Lien and (y) the proceeds thereof and (ii) if such Lien or Indebtedness being replaced, extended or renewed is subordinated in right of payment and/or in right of Lien to any of the Obligations,

such replacement extension or renewal is subordinated in right of payment and or in right of Lien to at least the same extent as such Lien or Indebtedness being replaced, extended or renewed;

(h) Liens securing any of the Indebtedness described in Section 7.2(b)(ii) and Section 7.2(c) that is owed by a Subsidiary of the Borrower that is not a Subsidiary Guarantor;

(i) Liens existing on any asset of any Person at the time such Person becomes a Subsidiary or is merged or consolidated with or into a Subsidiary that (i) were not created in contemplation of or in connection with such event and (ii) do not extend to or cover any other property or assets of the Loan Parties, so long as any Indebtedness related to any such Liens as permitted under Section 7.2;

(j) customary rights of set off, bankers' liens, refunds or charge backs, under deposit agreements, the Uniform Commercial Code or common law, of banks or other financial institutions where Holdings or any of its Subsidiaries maintains deposits (other than deposits intended as cash collateral) in the ordinary course of business;

(k) any interest or title of a licensor, sublicensor, lessor or sublessor with respect to any assets under any license or lease agreement entered into in the ordinary course of business; provided that the same do not interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries;

(l) licenses, sublicenses, leases or subleases with respect to any assets (including intellectual property) granted to third Persons in the ordinary course of business; provided that the same do not interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries;

(m) Liens which arise under Article 4 of the Uniform Commercial Code in any applicable jurisdictions on items in collection and documents and proceeds related thereto;

(n) precautionary filings of financing statements under the Uniform Commercial Code of any applicable jurisdictions in respect of operating leases or consignments entered into by the Borrower or its Subsidiaries in the ordinary course of business;

(o) Liens arising as a result of any agreement entered into in connection with a sale and leaseback transaction;

(p) Liens solely on any cash earnest money deposits made by the Borrower or its Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted under this Agreement;

(q) Liens on Capital Stock in joint ventures securing obligations of such joint ventures;

(r) Liens on proceeds of insurance policies securing insurance premiums financing arrangements; provided, that such Liens are limited to the applicable unpaid insurance premiums;

(s) [reserved]; and

(t) Liens securing Indebtedness described in Section 7.2(d)(i) that are junior in priority to the Liens securing the Obligations and subject to an intercreditor agreement on terms satisfactory to the Administrative Agent; and

(u) other Liens securing Indebtedness outstanding in an aggregate principal amount not to exceed $1,000,000.

7.2 Indebtedness. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Indebtedness, except:

(a) Indebtedness (i) outstanding on the date hereof and described on Schedule 7.2(a) hereto~~,~~ and (ii) under the Exit Second Lien Facility~~, and (iii) the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~;

(b) in the case of the Borrower,

(i) Indebtedness in respect of Swap Agreements entered into to hedge against fluctuations in interest rates, business commodities or utilities and not for speculative purposes, and

(ii) Indebtedness owed to a direct or indirect Wholly Owned Subsidiary of the Borrower, which Indebtedness (x) shall be subordinated to any Indebtedness of the Borrower under the Loan Documents on terms reasonably acceptable to the Administrative Agent and (y) if evidenced by promissory notes, shall be in form and substance satisfactory to the Administrative Agent and shall be pledged as security for the Obligations of the holder thereof under the Loan Documents to which such holder is a party and delivered to the Administrative Agent pursuant to the terms of the Guarantee and Collateral Agreement;

(c) in the case of any Subsidiary of the Borrower, Indebtedness owed to the Borrower or to a Wholly Owned Subsidiary of the Borrower; provided that in each case, (i) to the extent such Indebtedness exceeds $250,000 in the aggregate, such Indebtedness shall be evidenced by promissory notes in form and substance satisfactory to the Administrative Agent and such promissory notes shall be pledged as security for the Obligations of the holder thereof under the Loan Documents to which such holder is a party and delivered to the Administrative Agent pursuant to the terms of the Guarantee and Collateral Agreement and (ii) the aggregate amount of such Indebtedness ~~owned~~owed by a Subsidiary that is not a Loan Party shall not exceed $[ ] at any time;

(d) the Indebtedness under the Loan Documents and, in the case of the Loan Parties and their Subsidiaries,

(i) So long as no Default has occurred and is continuing, Indebtedness which does not require the cash payment of interest in an aggregate principal amount (excluding any accrued interest that is paid in kind and added to the outstanding principal amount of such Indebtedness) not to exceed $3,000,000 at any time outstanding that is either (i) unsecured or (ii) secured by Liens permitted by Section 7.1(t); provided that to the extent any Indebtedness is created, incurred or assumed in compliance with this clause (i) while no Default has occurred and is continuing, such Indebtedness shall continue to be permitted under this clause (i) in the event that a Default has occurred and is continuing;

(ii) So long as no Default has occurred and is continuing, Indebtedness secured by Liens permitted by Section 7.1(u) not to exceed in the aggregate $1,000,000 at any time outstanding; provided that to the extent any Indebtedness is created, incurred or assumed in compliance with this clause (ii) while no Default has occurred and is continuing, such Indebtedness shall continue to be permitted under this clause (ii) in the event that a Default has occurred and is continuing;

(iii) Secured purchase money financing (including Capital Lease Obligations) whether incurred in contemplation of, at the time of, or within 180 days following, the acquisition of the related property or equipment, not to exceed in the aggregate $4,500,000 at any time outstanding, and in the case of purchase money financing or Capital Lease Obligations to which any Subsidiary of a Loan Party is a party, Indebtedness of the Loan Party of the type described in clause (h) of the definition of "Indebtedness" guaranteeing the Obligations of such Subsidiary under the purchase money financing or Capital Lease Obligations permitted under this clause (iii); provided that, to the extent ~~that~~ any Indebtedness is incurred to finance Capital Expenditures under this Section 7.2(d)(iii) during any period of 12 consecutive fiscal months of the Borrower (or if less, the number of fiscal months subsequent to the Closing Date) exceeds $1,000,000 at any time outstanding, the amount of such excess shall reduce the amount of permitted Capital Expenditures during the applicable period under Section 7.16;

(iv) Endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(v) Guarantee Obligations in favor of the Administrative Agent for the benefit of the Administrative Agent and the Secured Parties;

(vi) Guarantee Obligations with respect to Indebtedness permitted pursuant to this Section 7.2 (provided that if such Indebtedness is subordinated to the Obligations, any such ~~Guaranty Obligations~~related Guarantee Obligation shall be subordinated to the same extent as the underlying subordinated Indebtedness) and Guarantee Obligations of other obligations not comprising Indebtedness of the Borrower or any of its Subsidiaries entered into in the ordinary course of business and not prohibited hereunder;

(vii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or other similar instrument drawn against insufficient funds in the ordinary course of business;

(viii) Obligations of the Borrower or any of its Subsidiaries in respect of performance bonds, bankers' acceptances, workers' compensation claims, surety, bid or appeal bonds, completion guarantees and payment obligations in connection with self-insurance or similar obligations provided by the Borrower or any of its Subsidiaries in the ordinary course of business, and obligations owed to (including in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, health, disability, or other employee benefits or property, casualty or liability insurance provided by such Person to the Borrower or any of its Subsidiaries pursuant to reimbursement or indemnification obligations to such Person, in each case, in the ordinary course of business;

(ix) Indebtedness arising from agreements of the Borrower or any of its Subsidiaries providing for customary indemnification, adjustment of purchase price based on changes in working capital and earn-outs (based on changes in working capital and earn-outs based on the income generated by assets acquired) or similar obligations, in each case, incurred or assumed in connection with the disposition of any Subsidiary or assets permitted under Section 7.5 or any investment permitted under Section 7.6; and

(x) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business with the providers of such insurance or their Affiliates.

7.3 Changes in Nature of Business. With respect to the Borrower, will not, nor will it permit any of its Subsidiaries to, alter in any material respect the character or conduct of the business conducted by the Borrower and its Subsidiaries as of the Closing Date, other than engaging in businesses that are ancillary or related thereto, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

7.4 Mergers, Etc. Merge into or consolidate with any Person or permit any Person to merge into it, or permit any of its Subsidiaries to do so, except that:

(a) any Subsidiary of the Borrower may merge into or consolidate with the Borrower ~~or any other Subsidiary of the Borrower~~ (with, for the avoidance of doubt, the Borrower as the surviving or continuing Person) or any other Subsidiary of the Borrower, provided that, in the case of any merger or consolidation with another Subsidiary, the Person formed by such merger or consolidation shall be a direct or indirect Wholly Owned Subsidiary of the Borrower, provided further that, in the case of any such merger or consolidation to which a Loan Party is a party, the Person formed by such merger or consolidation shall be a Loan Party;

(b) in connection with any acquisition permitted under Section 7.6, any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided that the Person surviving such merger shall be a Wholly Owned Subsidiary of the Borrower and the provisions of Section 6.9 shall have been complied with;

(c) in connection with any sale or other disposition (which takes the form of a merger rather than a sale of stock or assets) permitted under Section 7.5 (other than clause (b) thereof), any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it;

(d) any Subsidiary of the Borrower may wind-up into the Borrower or a Subsidiary Guarantor; and

(e) any Subsidiary of the Borrower may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any other Subsidiary of the Borrower (provided that (i) if the transferor in such a transaction is a Subsidiary Guarantor, then the transferee must either be the Borrower or a Subsidiary Guarantor and (ii) the transferee or continuing or surviving Person shall be a Wholly Owned Subsidiary of the Borrower); provided, however, that in the case of any such merger to which the Borrower is a party, the Borrower is the surviving corporation.

7.5 Sales, Etc., of Assets. Sell, lease, transfer or otherwise dispose of (including by any sale and leaseback transaction), or permit any of its Subsidiaries to sell, lease, transfer or otherwise dispose of (including by any sale and leaseback transaction), any assets, or grant any option or other right

to purchase, lease or otherwise acquire, or permit any of its Subsidiaries to grant any option or other right to purchase, lease or otherwise acquire any assets, except:

(a) sales of inventory in the ordinary course of its business and the granting of any option or other right to purchase, lease or otherwise acquire inventory in the ordinary course of its business;

(b) in a transaction authorized by Section 7.4 (other than subsection (c) thereof);

(c) sales, transfers or other dispositions of assets among the Borrower and Subsidiary Guarantors;

(d) the sale of any asset by the Borrower or any of its Subsidiaries (other than a bulk sale of inventory) so long as (i) no Event of Default shall occur and be continuing, (ii) the purchase price paid to the Borrower or such Subsidiary for such asset shall be no less than the fair market value of such asset at the time of such sale, (iii) the purchase price for such asset shall be paid to the Borrower or such Subsidiary in cash, (iv) the Net Cash Proceeds of such asset sale received by the Borrower or such Subsidiary shall be applied to prepay the Revolving Loans to the extent required under Section 2.6 and the Revolving Commitments shall be reduced to the extent set forth in Section 2.6(b), (v) the aggregate fair market value of such asset and all other assets sold by the Borrower and its Subsidiaries, and the aggregate purchase price paid to the Borrower and all of its Subsidiaries for such asset and all other assets sold by the Borrower and its Subsidiaries, in each case after the Closing Date, shall not exceed $5,000,000 in the aggregate; provided that restaurant properties sold to franchisees shall be excluded from such limitation; provided further that restaurant properties sold to franchisees shall not exceed $5,000,000 in sales price paid for any individual sale and the aggregate sales price for all such sales from and after the date of this Agreement shall not exceed $20,000,000 in the aggregate;

(e) [reserved];

(f) the sale by the Borrower or any of its Subsidiaries of obsolete, worn-out, damaged, unusable or surplus assets no longer used in the business of the Borrower or any of its Subsidiaries in the ordinary course of business;

(g) the sale or discount without recourse by the Borrower or any Subsidiary thereof of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(h) subject to the requirements of Section 4.17, the disposition by the Borrower or any of its Subsidiaries of any Swap Agreement;

(i) dispositions by Holdings or any of its Subsidiaries of investments in cash and Cash Equivalents in the ordinary course of business;

(j) (i) any Subsidiary Guarantor may transfer assets to the Borrower or any other Subsidiary Guarantor, (ii) Holdings may transfer assets (other than Capital Stock of the Borrower) to the Borrower or any other Subsidiary Guarantor, and (iii) any Subsidiary of the Borrower that is not a Subsidiary Guarantor may transfer assets to the Borrower or any Subsidiary Guarantor (provided that, in connection with any such transfer, the Borrower or such Subsidiary Guarantor shall not pay more than an amount equal to the fair market value of such assets as determined at the time of such transfer)

(k) the lease, sublease, license, sublicense, abandonment, non-renewal or other disposition of intellectual property in the ordinary course of business consistent with past practice;

(l) leases, subleases, licenses or sublicenses of real or personal property with respect to no greater than five locations granted by the Borrower or any of its Subsidiaries to others in the ordinary course of business not interfering in any material respect with the business of Borrower or any of its Subsidiaries;

(m) dispositions by the Borrower or any of its Subsidiaries of property or assets subject to an insurance claim or condemnation proceeding; and

(n) dispositions by the Borrower or any of its Subsidiaries of capital assets in the ordinary course of business to the extent that (i) such capital assets are promptly exchanged for credit against the purchase price of similar replacement capital assets and (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement capital assets.

7.6 Investments in Other Persons. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except:

(a) equity Investments by ~~the~~ Holdings, the Borrower and their respective Subsidiaries in their respective Subsidiaries outstanding on the date hereof and additional equity Investments in Loan Parties;

(b) Investments by the Loan Parties and their Subsidiaries in Cash Equivalents;

(c) Investments existing on the date hereof and described on Schedule 7.6(c) hereto;

(d) Investments by the Borrower in Swap Agreements permitted under Section 7.2(b);

(e) Investments consisting of intercompany Indebtedness permitted under Section 7.2;

(f) Capital Expenditures permitted under Section 7.16;

(g) purchases of assets (other than Capital Expenditures) in the ordinary course of business;

(h) Investments by the Borrower and its Subsidiaries not otherwise permitted under this Section 7.6 in an aggregate amount not to exceed $1,000,000; provided that immediately before and after giving effect to any such Investment, no Default shall have occurred and be continuing;

(i) prepaid expenses or lease, utility and other similar deposits, in each case in the ordinary course of business;

(j) investments arising out of the receipt by the Borrower or any of its Subsidiaries of noncash consideration for any disposition of assets permitted pursuant to Section 7.5;

(k) investments resulting from pledges or deposits referred to in Section 7.1;

(l) notes from officers and employees, not to exceed an aggregate amount of $5,000,000, in exchange for equity interests of Holdings or any entity that directly or indirectly owns 100% of the equity of Holdings purchased by such officers or employees pursuant to a stock ownership or purchase plan or compensation plan; and

(m) Guarantee Obligations permitted pursuant to Section 7.2.

7.7 Restricted Payments. Declare or pay any dividends, purchase, redeem, retire, defease or otherwise acquire for value any of its Capital Stock now or hereafter outstanding, return any capital to its stockholders, partners or members (or the equivalent Persons thereof) as such, make any distribution of assets, Capital Stock, obligations or securities to its stockholders, partners or members (or the equivalent Persons thereof) as such, or permit any of its Subsidiaries to do any of the foregoing, or permit any of its Subsidiaries to purchase, redeem, retire, defease or otherwise acquire for value any Capital Stock in the Borrower or to issue or sell any Capital Stock therein, except that:

(a) any Wholly Owned Subsidiary of the Borrower may pay cash dividends or make distributions to the holders of its Capital Stock;

(b) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may declare and pay cash dividends and distributions (and each Subsidiary of the Borrower may declare and pay cash dividends and distributions to the Borrower or any of its Subsidiaries to enable the Borrower to do the same) to any direct or indirect parent to the extent necessary so that such parent may:

(i) in the event of the termination, dismissal, death, or disability of an officer, employee or director, of Holdings, any of its Subsidiaries, or any direct or indirect parent company of Holdings, purchase its Capital Stock or options in respect of its Capital Stock from such officer, employee or director (or the estate or heirs thereof), or make severance payments to such Persons (x) to the extent that such purchase is made with the net proceeds of (1) any offering of equity securities of Holdings which is not subject to prepayment requirements under this Agreement or (2) any key man life insurance policy maintained on the life of the Person with respect to whom such repurchase is made or (y) otherwise in an aggregate amount not to exceed $1,000,000 during any fiscal year, provided, however, that 100% of the unused amount of such payments that were permitted to be made during the immediately preceding fiscal year may be carried over for expenditure in the immediately following fiscal year; provided further, that such expenditures made pursuant to this Section during any fiscal year shall be deemed made, first, in respect of amounts carried over from the prior fiscal years and second, in respect of amounts permitted for the then-current fiscal year;

(ii) pay foreign, federal, state and local Taxes, to the extent such Taxes are attributable to the income or business of the Borrower or any of its Subsidiaries being included on a consolidated or other combined Tax return of an applicable parent; provided that the amount of such payments in any fiscal year does not exceed the amount of consolidated or other combined Taxes allocable to the Borrower and its Subsidiaries on a "with and without" basis;

(iii) pay (A) fees and expenses (including franchise or similar Taxes) required to maintain the corporate existence of such direct or indirect parent entity, (B) customary salary, bonus and other benefits in an aggregate amount not exceeding $250,000 per annum payable to third party directors of all such direct or indirect parent

entities, if applicable, (C) customary indemnities provided on behalf of directors, officers and employees of such direct or indirect parent entity, if applicable, and (D) general corporate overhead expenses (including legal, auditor and other customary expenses (not including management fees) incurred in the ordinary course of business) of such direct or indirect parent entity, in each case to the extent such fees, expenses, salary, benefits, indemnities and other amounts are attributable to the ownership or operation of the Borrower, if applicable, and its Subsidiaries (provided, that for so long as such direct or indirect parent entity owns no assets other than the Capital Stock of the Borrower or another direct or indirect parent entity, such fees and expenses shall be deemed for purposes of this clause (iii) to be so attributable to such ownership or operation); and

(iv) pay amounts required for any direct or indirect parent entity to pay fees and expenses, other than to Affiliates of the Borrower, related to the maintenance of such parent entity of its corporate or other entity existence and performance of its obligations under the Loan Documents, the Exit Second Lien Facility, ~~the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization),~~ and agreements relating thereto to the extent such obligations are permitted by Section 7.12;

(c) Holdings may accrue dividends on any of its Capital Stock; provided that such dividends may not be paid in cash; and

(d) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may issue (A) rights or options to acquire Capital Stock of the Borrower pursuant to employee stock purchase plans, director or employee option plans and other employee benefit plans and (B) common stock upon the exercise of options issued under, or pursuant to, employee stock purchase plans, director or employee option plans and other employee benefit plans.

7.8 Amendments of Constitutive Documents~~,~~ and Exit Second Lien Facility ~~and Exit Third Lien Notes~~. Amend, restate, supplement or otherwise modify or agree to any amendment, restatement, supplement or other modification of, (a) its certificate of incorporation, certificate of formation, operating agreement, bylaws or other constitutive document other than amendments, restatements, supplements or other modifications that could not be reasonably expected to have a Material Adverse Effect or adversely affect the interests of the Administrative Agent or the Lenders, (b) the Exit Second Lien Loan Documents~~,~~ or the Exit Second Lien Obligations ~~or, if issued pursuant the Plan of Organization, the Exit Third Lien Notes~~, in each case, except to the extent permitted by the Intercreditor Agreement, or (c) any document, agreement or instrument evidencing or governing any other Indebtedness that has been subordinated to the Obligations in the right of payment or any Liens that have been subordinated in priority to the Liens of the Administrative Agent except to the extent permitted by the applicable subordination agreement or subordination terms.

7.9 Accounting Changes. Make or permit, or permit any of its Subsidiaries to make or permit, any change in (i) accounting policies or reporting practices except as permitted by GAAP or (ii) its fiscal year without the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld.

7.10 Prepayments, Etc., of Indebtedness. Make or offer to make any optional or voluntary payment, prepayment, repurchase or redemption of or otherwise optionally or voluntarily defease or segregate funds with respect to (i) the Exit Second Lien Facility ~~(and, if issued pursuant the Plan of Reorganization, the Exit Third Lien Notes)~~, except to the extent expressly permitted by the Intercreditor Agreement or (ii) any Indebtedness that has been subordinated in right of payment to the Obligations except to the extent expressly permitted by the subordination terms and conditions applicable

thereto~~; and(b) Amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of the Exit Second Lien Facility or, if issued pursuant to the Plan of Reorganization, the Exit Third Lien Notes (other than any such amendment, modification, waiver or other change that (i) would extend the maturity or reduce the amount of any payment of principal thereof or reduce the rate or extend any date for payment of interest thereon and (ii) does not involve the payment of a consent fee other than a consent fee paid in kind)~~.

7.11 Negative Pledge. Enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement prohibiting or restricting the creation or assumption of any Lien upon any of its property or assets except (i) in favor of the Secured Parties, (ii) in connection with any Indebtedness permitted under Section 7.2 and secured by Liens permitted under Section 7.1, and any agreement prohibiting further Liens on the properties encumbered thereby; (iii) in connection with the Exit Second Lien Facility~~ and the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~, (iv) customary anti-assignment provisions in contracts restricting the assignment thereof, (v) pursuant to any Swap Agreements permitted hereunder, (vi) customary provisions in leases restricting assignability or subleasing, (vii) restrictions which are not more restrictive than those contained in this Agreement with respect to Subsidiaries of the Borrower contained in any documents governing any Indebtedness incurred after the Closing Date in accordance with the provisions of this Agreement, (viii) under any documents relating to joint ventures of Borrower or any Subsidiary to the extent that such joint ventures are not prohibited hereunder, (ix) any prohibition or limitation that (A) exists pursuant to applicable Requirements of Law or (B) consists of customary restrictions and conditions contained in agreements relating to the sale of assets or equity permitted hereunder by Borrower or any Subsidiary pending such sale, provided such restrictions and conditions apply only to the assets of Borrower or the Subsidiary that are to be sold, (x) any prohibition or limitation that arises under any agreement that does not restrict in any manner (directly or indirectly) Liens created in favor of the Secured Parties on any Collateral securing the Obligations and does not require the direct or indirect grant of Liens securing any Indebtedness or other obligation by virtue of the granting of Liens on or the pledge of property of any Loan Party to secure the Obligations, and (xi) licenses or contracts entered into in the ordinary course of business which by the terms of such licenses and contacts prohibit the granting of Liens on the rights contained therein.

7.12 Holding Company. (a) Solely with respect to Holdings, conduct, transact or otherwise engage, or commit to conduct, transact or otherwise engage, in any business or operations other than (i) its direct ownership of all of the Capital Stock of, and its management of, the Borrower, (ii) the Transactions or the other transactions contemplated by the Confirmation Order and Plan of Reorganization, (iii) performance of its obligations under this Agreement and the other Loan Documents and the other agreements contemplated thereby or by the Confirmation Order and Plan of Reorganization (collectively, the "Transaction Documents") and other activities to the extent permitted by and in compliance with the Transaction Documents, (iv) the provision of administrative, legal, accounting, tax and management services to, or on behalf of, any of its Subsidiaries, (v) the entry into, and exercise of rights and performance of obligations in respect of (A) any other agreement to which it is a party on the Closing Date; in each case as amended, supplemented waived or otherwise modified from time to time, and any refinancings, refundings, renewals or extensions thereof in accordance with such Transaction Documents, (B) contracts and agreements with officers, directors and employees of Holdings or any of its Subsidiaries relating to their employment or directorships, (C) insurance policies and related contracts and agreements, and (D) equity subscription agreements, registration rights agreements, voting and other stockholder agreements, engagement letters, underwriting agreements and other agreements in respect of its equity securities or any offering, issuance or sale thereof, (vi) the offering, issuance, sale and repurchase or redemption of, and dividends or distributions on its equity securities, (vii) the filing of registration statements, and compliance with applicable reporting and other obligations, under federal, state or other securities laws, (viii) the listing of its equity securities and compliance with applicable

reporting and other obligations in connection therewith, (ix) the retention of (and the entry into, and exercise of rights and performance of obligations in respect of, contracts and agreements with) transfer agents, private placement agents and underwriters with respect to equity securities and, counsel, accountants and other advisors and consultants, (x) the performance of obligations under and compliance with its certificate of incorporation and by-laws, or any applicable law, ordinance, regulation, rule, order, judgment, decree or permit, including, without limitation, as a result of or in connection with the activities of its Subsidiaries, (xi) the incurrence and payment of its operating and business expenses and any Taxes for which it may be liable and (xii) other activities incidental or related to the foregoing.

(b) Notwithstanding anything herein to the contrary, Holdings will not create, incur, assume or permit to exist any Indebtedness or other liabilities except Indebtedness created under the Loan Documents, the Exit Second Lien Facility~~, the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~ and liabilities imposed by law, including Tax liabilities, and other liabilities incidental to its existence and permitted business and activities.

(c) Notwithstanding anything herein to the contrary, Holdings will not create, incur, assume or permit to exist any Lien (other than Permitted Liens and Liens permitted under Section 7.1(a)~~,~~ and Section 7.1(d)~~, and Section 7.1(t)~~) on any of the Capital Stock issued by the Borrower to Holdings.

7.13 Payment Restrictions Affecting Subsidiaries. Directly or indirectly, enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement limiting the ability of any of its Subsidiaries to declare or pay dividends or other distributions in respect of its Capital Stock or repay or prepay any Indebtedness owed to, make loans or advances to, or otherwise transfer assets to or invest in, the Borrower or any Subsidiary of the Borrower (whether through a covenant restricting dividends, loans, asset transfers or investments, a financial covenant or otherwise), except (i) the Loan Documents, (ii) any agreement in effect at the time such Subsidiary becomes a Subsidiary of the Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower and (iii) provisions described in clauses (iii) through (x) of Section 7.11 or directly related thereto.

7.14 Transactions with Affiliates. With the exception of inter-company transactions among the Loan Parties, conduct, and permit any of its Subsidiaries to conduct, any transaction with any of their Affiliates on terms that are either not fair and reasonable or less favorable to the Loan Party or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate; provided that the foregoing provision shall not be deemed to be breached by the following:

(a) transactions permitted by Sections 7.7 and 7.12; ~~and~~

(b) any equity issuance permitted hereunder;

(c) customary indemnities to, and expense reimbursements of, officers and directors of Holdings and its Subsidiaries;

(d) transactions consummated on the Closing Date required by, and pursuant to, the Confirmation Order and Plan of Reorganization; and

(e) customary transactions in connection with customary and reasonable employment and consulting agreements and arrangements entered into in the ordinary course of business with officers, management, employees and consultants (including, without limitation, in connection with employment compensation and employee benefit plans entered into in the ordinary course of business) and the issuance, grant, award or sale of Capital Stock and payments, awards, options and other rights or

interests, in each case in the ordinary course of business, in each case, as approved by the applicable board of directors (or equivalent governing body).

7.15 Use of Proceeds. Permit the proceeds of the Loans to be used for any purpose other than those permitted by Section 4.17, including for the avoidance of doubt, (i) requesting any borrowing or Letter of Credit, or using the proceeds of any Loan or Letter of Credit (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

7.16 Capital Expenditures. Make or commit to make, or permit any of its Subsidiaries to make or commit to make, any Capital Expenditure during any period of twelve consecutive fiscal months of the Borrower (or if less, the number of full fiscal months subsequent to the Closing Date) ending in any fiscal month set forth below exceeding the amount set forth below opposite such fiscal month:

Fiscal Months	Amount[2][3]
November 2016	$1,013,073
December 2016	$2,115,157
January 2017	$3,217,240
February 2017	$4,319,323
March 2017	$5,421,407
April 2017	$6,523,490
May 2017	$7,625,573
June 2017	$8,727,657
July 2017	$9,829,740
August 2017	$10,931,823
September 2017	$12,033,907
October 2017	$13,135,990
Thereafter	$13,225,000

7.17 Financial Covenants.

(a) Minimum EBITDA. Permit Consolidated EBITDA as of the last day of any period of twelve consecutive fiscal months of the Borrower ending with any fiscal month set forth below to be less than the amount set forth below opposite such fiscal month:

Each Fiscal Month	Minimum Consolidated EBITDA[3][4]
November 2016	$8,533,453
December 2016	$8,429,394
January 2017	$8,261,865

[2] ~~Amounts to be confirmed~~
[3] Amounts to be confirmed
[3] ~~Amounts to be confirmed.~~
[4] Amounts to be confirmed.

February 2017	$8,234,163
March 2017	$8,960,410
April 2017	$11,922,616
May 2017	$12,353,520
June 2017	$12,171,847
July 2017	$11,699,919
August 2017	$11,975,317
September 2017	$14,464,432
October 2017	$15,286,753
November 2017	$15,845,706
December 2017	$18,003,778
Monthly Thereafter	TBD

For purposes of determining Consolidated EBITDA under this Section 7.17(a), pro forma effect shall be given to each component as set forth in the last sentence of the definition of "Consolidated EBITDA".

(b) Maximum Liquidity. As of the last day of any fiscal month of the Borrower, beginning with the fiscal month ending January 31, 2018. permit Liquidity to be greater than the Maximum Liquidity Amount.

(c) Minimum Liquidity. Permit the Liquidity as of the last day of any fiscal month of the Borrower set forth below to be less than the amount set forth below opposite such fiscal month:

Each Fiscal Month	Minimum Liquidity
From the Closing Date through March 31, 2017	$5,000,000
Ending April 30, 2017 through December 31, 2017	$6,000,000
Ending January 31, 2018 through the Revolving Termination Date	$7,500,000

SECTION 8. EVENTS OF DEFAULT

If any of the following events shall occur and be continuing:

(a) the Borrower shall fail to pay any principal of any Loan or Reimbursement Obligation when due in accordance with the terms hereof; or the Borrower shall fail to pay any interest on any Loan or Reimbursement Obligation, or any other amount payable hereunder or under any other Loan Document, within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) or (ii) of Section 6.4(a) (with respect to Holdings and the Borrower only), Section 6.7(a) or Section 7 of this Agreement or [Section 5.5] of the Guarantee and Collateral Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after notice to the Borrower from the Administrative Agent or the Required Lenders; or

(e) any Group Member shall (i) default in making any payment of any principal of any Indebtedness (including any Guarantee Obligation, but excluding the Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable, and in each of the foregoing, such failure shall continue after the expiration of the applicable grace period; provided, that a default, event or condition described in clause (i), (ii) or (iii) of this paragraph (e) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness the aggregate outstanding principal amount of which is $1,000,000 or more; or

(f) (i) any Group Member shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets; or (ii) there shall be commenced against any Group Member any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed or undischarged for a period of 60 days; or (iii) there shall be commenced against any Group Member any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) any Group Member shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or (vi) or any Group Member shall make a general assignment for the benefit of its creditors; or

(g) (i) an ERISA Event shall have occurred, (ii) a trustee shall be appointed by a United States district court to administer any Pension Plan(s), (iii) the PBGC shall institute proceedings to terminate any Pension Plan(s), (iv) any Loan Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and

appropriate manner; or (v) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (v) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to result in a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of $[____] or more other than a judgment or decree that is entered against any Group Member for which the underlying liability is treated under the Plan of Reorganization as a "General Unsecured Claim" (as defined therein) or included in any class junior to General Unsecured Claims and is satisfied with proceeds of the General Unsecured Claim Cash Pool (as defined in the Plan of Reorganization) pursuant to the terms of the Plan of Reorganization (if entitled to any distribution thereunder), and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof; or

(i) (A)(x) the Intercreditor Agreement or any material provision thereof or (y) the subordination provisions of any agreement or instrument governing any Indebtedness required to be subordinated to the Obligations pursuant to the terms hereof, in each case, shall cease, for any reason, to be in full force and effect, or any party thereto, including any Loan Party or any Affiliate of any Loan Party shall so assert, or any of the Obligations or the Liens securing the Obligations for any reason shall not have the priority contemplated by this Agreement, the Intercreditor Agreement or such other subordination provisions, or (B) any of the Security Documents or any material provision of any other Loan Document shall cease, for any reason, to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby other than in respect of any item or items of Collateral the fair market value of which, either individually or in the aggregate, does not exceed $250,000, except as a result of the action or inaction of the Administrative Agent or Lenders; or

(j) the guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert; or

(k) (i) prior to an IPO, (x) the Permitted Investors in the aggregate cease to be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of Voting Stock of the Borrower or any direct or indirect parent entity of the Borrower (the "Relevant Parent") (as applicable) representing a majority of the voting power of the total outstanding Voting Stock of the Borrower or any such Relevant Parent (as applicable) or (y) the Sponsor Entities shall, collectively, cease to have or exercise the power to elect a majority of the board of directors or other managing body (in number or voting power) of Holdings or its Relevant Parent; (ii) upon and following an IPO, any "person" or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), other than a "person" or "group" including one or more Permitted Investors becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of 35% or more in the aggregate of the total voting power of the Voting Stock of the Borrower or any Relevant Parent (as applicable), whether as a result of the issuance of securities of the Borrower or such Relevant Parent (as applicable), any merger, consolidation, liquidation or dissolution of the Borrower or such Relevant Parent (as applicable), any direct or indirect transfer of securities by any Permitted Investor or otherwise, (iii) during any period of two consecutive years (during which period the Borrower has been a party to this Agreement), Continuing Directors shall cease for any reason to constitute a majority of such board of directors then in office; (iv) the Borrower ceases to be a Wholly Owned Subsidiary of Holdings or a direct or indirect Subsidiary of any Relevant Parent, (v) ~~"Change of Control" (~~a "change of control" however so defined in any Exit Second Lien Loan Documents, any documents, agreements or instruments evidencing or

governing any Indebtedness subordinated to the Obligations, or any other defined term having a similar purpose~~) as defined in the Exit Second Lien Agreement~~ shall have occurred or (vi) a sale of all or substantially all of the assets of the Borrower or the Group Members;

and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Revolving Commitments shall immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) shall immediately become due and payable, and (B) if such event is any other Event of Default, either or both of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Commitments to be terminated forthwith, whereupon the Revolving Commitments shall immediately terminate; and (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder) to be due and payable forthwith, whereupon the same shall immediately become due and payable. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower due and owing hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto). Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

SECTION 9. THE AGENT

9.1 Appointment. Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

9.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative

Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither the Administrative Agent, the Senior Lead Arrangers, nor any of their respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy or email message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to Holdings or the Borrower), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice from a Lender, Holdings or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

9.6 Non-Reliance on Administrative Agent and Other Lenders. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates.

9.7 Indemnification. The Lenders agree to indemnify the Administrative Agent and its officers, directors, employees, affiliates, agents, advisors and controlling persons (each, an "Agent Indemnitee" and such affiliates, directors, officers, employees, advisors, agents and other representatives of any such Agent Indemnitee are referred to herein as its "related parties") (to the extent not reimbursed by Holdings or the Borrower and without limiting the obligation of Holdings or the Borrower to do so), ratably according to their respective Aggregate Exposure Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Revolving Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Aggregate Exposure Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of, the Revolving Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's bad faith, gross negligence, willful misconduct or material breach of the obligations of the relevant Agent Indemnitee (or its related parties) under this Agreement. The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

9.8 Administrative Agent in Its Individual Capacity. The Administrative Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though the Administrative Agent were not the Administrative Agent. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued or participated in by it, the Administrative Agent shall have the same rights and powers under this Agreement and the other Loan

Documents as any Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" shall include the Administrative Agent in its individual capacity.

9.9 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8(a) or Section 8(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 9 and of Section 10.5 shall continue to inure to its benefit.

9.10 Senior Lead Arrangers. The Senior Lead Arrangers shall not have any duties or responsibilities hereunder in their capacity as such.

SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) forgive the principal amount or extend the final scheduled date of maturity of any Loan, reduce the stated rate of any interest or fee payable hereunder (except (x) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Required Lenders) and (y) that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender's Revolving Commitment, in each case without the written consent of each Lender directly affected thereby; (ii) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (iii) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release all or substantially all of the Subsidiary Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case

without the written consent of all Lenders; (iv) amend, modify or waive any provision of Section 9 or Section 2.18 or any other provision of any Loan Document that affects the Administrative Agent without the written consent of the Administrative Agent; (v) amend, modify or waive any provision of Section 3 or Section 2.18 without the written consent of the Issuing Lender. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

10.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy or electronic mail), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy or electronic mail notice, when received, addressed as follows in the case of Holdings, the Borrower and the Administrative Agent, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

[Holdings:	See address for the Borrower below Attention: [_____] Email: [_____] Telecopy: [_____] Telephone: [_____]]
Borrower:	Logan's Roadhouse, Inc. 3011 Armory Drive, Ste. 301 Nashville, TN 37204 Attention: [_____] Email: [_____] Telecopy: [_____] Telephone: [_____]
Administrative Agent:	JPMorgan Chase Bank, N.A. 383 Madison Avenue, 24th Floor New York, NY 10179 Attention: Douglas Kravitz Email: douglas.a.kravitz@jpmorgan.com Telecopy: (212) 270-1262 Telephone: (917) 210-3391
with a copy to	JPMorgan Chase Bank, N.A. 500 Stanton Christiana Road, NCC5, Floor 02 Newark, DE 19713 -2107 Attention: Dina E. Scarfo Email: dina.e.scarfo@chase.com Telecopy: (302) 634-4250 Telephone: (302) 634-1903

provided that any notice, request or demand to or upon the Administrative Agent or the Lenders shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Payment of Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable and documented fees and disbursements of counsel to the Administrative Agent and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower at least one Business Day prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Administrative Agent shall deem appropriate, (b) to pay or reimburse the Lenders for all of the reasonable and documented out-of-pocket costs, fees, disbursements and expenses of outside counsel, local counsel and if deemed necessary in the sole discretion of the Lenders, financial advisors, incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, with statements with respect to the foregoing to be submitted to the Borrower at least one Business Day prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Lenders shall deem appropriate, (c) to pay or reimburse each Lender and the Administrative Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the fees and disbursements of one primary outside counsel and one local counsel and, if deemed reasonably necessary in the sole discretion of the Lenders, one financial advisor, to the Lenders and the Administrative Agent, (d) to pay, indemnify, and hold each Lender and the Administrative Agent harmless from, any and all recording and filing fees that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by,

or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (e) to pay, indemnify, and hold each Lender and the Administrative Agent and their respective officers, directors, employees, affiliates, agents, advisors and controlling persons (each, an "Indemnitee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, reasonable costs, reasonable expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of any Group Member or any of the Properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (e), collectively, the "Indemnified Liabilities"), provided, that the Borrower shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence, bad faith, or willful misconduct of such Indemnitee (or any of its related parties) or the material breach of the obligations of such Indemnitee (or any of its related parties) under this Agreement or the other Loan Documents. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, except to the extent any such right results from the gross negligence, bad faith, or willful misconduct of the Indemnitee (or any of its related parties) against whom such rights are asserted. All amounts due under this Section 10.5 shall be payable not later than 10 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Chief Financial Officer (or Vice President of Finance if the Chief Financial Officer position is vacant) of the Borrower, at the address of the Borrower set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive the termination of this Agreement and the repayment of the Loans and all other amounts payable hereunder. Notwithstanding the foregoing, the Borrower shall not be responsible for any Taxes under this Section 10.5, other than any Taxes that are losses or damages incurred in respect of any non-Tax Indemnified Liability.

10.6 Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any affiliate of the Issuing Lender that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an "Assignee"), other than a Permitted Investor or a natural person, all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Commitments and the Loans at the time owing to it) with the prior written consent of:

(A) the Borrower (not to be unreasonably withheld, conditioned or delayed); provided that no consent of the Borrower shall be required for an assignment to a Lender, an affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default has occurred and is continuing, any other Person; provided further that the Borrower shall be deemed

to have consented to any such assignment unless the Borrower has objected thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof; and

(B) the Administrative Agent.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Revolving Commitments or Loans, the amount of the Revolving Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that (1) no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 and (2) the assigning Lender shall have paid in full any amounts owing by it to the Administrative Agent;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; and

(D) without the prior written consent of the Administrative Agent and the Borrower, no assignment shall be made to a prospective Assignee that bears a relationship to the Borrower described in Section 108(e)(4) of the Code.

For the purposes of this Section 10.6, "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an affiliate of a Lender or (c) an entity or an affiliate of an entity that administers or manages a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.13, 2.14, 2.15 and 10.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be

treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Lender and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice. For the avoidance of doubt, this Section 10.6 shall be construed so that the Loans of, and the L/C Obligations owing to, each Lender are at all times maintained in "registered form" within the meaning of Treasury regulations 5f.103-1(c) (and any successor regulations), and in no event shall any obligation hereunder be considered a bearer instrument or obligation within the meaning of Section 163(f) of the Code.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") other than a Permitted Investor, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Revolving Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent, the Issuing Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and (D) without the prior written consent of the Administrative Agent and the Borrower, no participation shall be sold to a prospective Participant that bears a relationship to the Borrower described in Section 108(e)(4) of the Code. 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 to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of, and subject to the limitations of, Sections 2.13, 2.14 and 2.15 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender, provided such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest)

of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Revolving Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Revolving Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender, each Loan Party and the Administrative Agent shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant or the applicable participating Lender shall not be entitled to receive any greater payment under Section 2.13 or 2.14 than the applicable participating Lender would have been entitled to receive in the absence of the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. No Participant shall be entitled to the benefits of Section 2.14 unless such Participant complies with Section 2.14(e) as if it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(f) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent and without regard to the limitations set forth in Section 10.6(b). Each ~~of Holdings, the Borrower~~Loan Party, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement or a court order expressly provides for payments to be allocated to a particular Lender, if any Lender (a "Benefitted Lender") shall receive any payment of all or part of the Obligations owing to it (other than in connection with an assignment made pursuant to Section 10.6), or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits

of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any Obligations becoming due and payable by the Borrower and remaining unpaid past any applicable grace period (whether at the stated maturity, by acceleration or otherwise), to apply to the payment of such Obligations, by setoff or otherwise, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, any affiliate thereof or any of their respective branches or agencies to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such application made by such Lender, provided that the failure to give such notice shall not affect the validity of such application.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by email or facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

10.11 **GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

10.12 Submission To Jurisdiction; Waivers. Each Loan Party hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to Holdings, the Borrower or other Loan Party, as the case may be at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.13 Acknowledgements. Each Loan Party hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand, and the Loan Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Loan Parties and the Lenders.

10.14 Releases of Guarantees and Liens. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any Collateral or guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1 or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Loans, the Reimbursement Obligations and the other obligations under the Loan Documents (other than obligations under or in respect of Specified Swap Agreements or Specified Cash Management Agreements or Unmatured Surviving Obligations) shall have been paid in full, the Revolving Commitments have been terminated and no Letters of Credit shall be outstanding, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

10.15 Confidentiality. Each of the Administrative Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, the Administrative Agent or any Lender pursuant to or in connection with this Agreement that is designated by the provider thereof as confidential; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Swap Agreement (or any professional advisor to such counterparty), (c) on a confidential basis, to its employees, directors, agents, attorneys, accountants and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document, or (j) if agreed by the Borrower in its sole discretion, to any other Person.

Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Borrower and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws.

All information, including requests for waivers and amendments, furnished by the Borrower or the Administrative Agent pursuant to, or in the course of administering, this Agreement or the other Loan Documents will be syndicate-level information, which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities. Accordingly, each Lender represents to the Borrower and the Administrative Agent that it has identified in its administrative questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal and state securities laws.

10.16 WAIVERS OF JURY TRIAL. **THE LOAN PARTIES, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

10.17 USA Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

10.18 Intercreditor Agreement. By executing this Agreement as a Lender, or by becoming a Lender hereunder pursuant to an Assignment and Assumption, each Lender hereby agrees to the terms of the Intercreditor Agreement, acknowledges that certain of its rights hereunder shall be

subject thereto, and consents to the execution thereof by the Administrative Agent on behalf of such Lender.

10.19 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 any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to Write-Down and Conversion Powers and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of Write-Down and Conversion Powers.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

LOGAN'S ROADHOUSE, INC.

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A., as Administrative Agent, Senior Lead Arranger and as a Lender

By: _____
Name:
Title:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Senior Lead Arranger and as a Lender

By:
Name:
Title:

By:
Name:
Title:

EXHIBIT C

Exit Second Lien Facility

DRAFT 11/4/16

$[__]

SECOND LIEN CREDIT AGREEMENT

among

LOGAN'S ROADHOUSE, INC.,
as Borrower,

LRI HOLDINGS, INC.,
as Holdings,

The other Loan Parties from Time to Time Parties Hereto,

The Several Lenders from Time to Time Parties Hereto,

and

CORTLAND CAPITAL MARKET SERVICES LLC,
as Administrative Agent

Dated as of [___], 2016

TABLE OF CONTENTS

Page

SECTION 1. DEFINITIONS ~~2~~1

1.1 Defined Terms ~~2~~1
1.2 Other Definitional Provisions 25

SECTION 2. AMOUNT AND TERMS OF LOANS 26

2.1 Term Loans 26
2.2 Evidence of Closing Date Term Loans 26
2.3 Commitment Fees, etc. ~~26~~27
2.4 [Reserved] 27
2.5 Optional Prepayments 27
2.6 Mandatory Prepayments. 27
2.7 Conversion and Continuation Options 28
2.8 Limitations on Eurodollar Tranches ~~28~~29
2.9 Interest Rates and Payment Dates 29
2.10 Computation of Interest and Fees ~~29~~30
2.11 Inability to Determine Interest Rate 30
2.12 Payments Generally; Pro Rata Treatment; Sharing of Set-offs 30
2.13 Requirements of Law ~~31~~32
2.14 Taxes ~~32~~33
2.15 Indemnity 35
2.16 Change of Lending Office 35
2.17 Replacement of Lenders 35
2.18 Defaulting Lenders 36

SECTION 3. [RESERVED] 36

SECTION 4. REPRESENTATIONS AND WARRANTIES 36

4.1 Financial Condition 36
4.2 No Change 37
4.3 Existence; Compliance with Law 37
4.4 Power; Authorization; Enforceable Obligations 37
4.5 No Legal Bar ~~37~~38
4.6 Litigation 38
4.7 No Default 38
4.8 Ownership of Property; Liens; Possession Under Leases; Insurance 38
4.9 Location of Real Property and Leased Premises ~~38~~39
4.10 Intellectual Property 39
4.11 Taxes 39
4.12 Federal Regulations 39
4.13 Labor Matters ~~39~~40
4.14 ERISA ~~39~~40
4.15 Investment Company Act; Other Regulations 40
4.16 Subsidiaries; Equity Interests 40
4.17 Use of Proceeds 40

Page

4.18 Environmental Matters 40
4.19 Accuracy of Information, etc 41
4.20 Security Documents ~~41~~42
4.21 Solvency 42
4.22 EEA Financial Institutions 42
4.23 Insurance. 42
4.24 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices; Anti-Terrorism Laws. 42

SECTION 5. CONDITIONS PRECEDENT 43

5.1 Conditions to Initial Extension of Credit 43

SECTION 6. AFFIRMATIVE COVENANTS ~~46~~47

6.1 Financial Statements ~~46~~47
6.2 Certificates; Other Information 47
6.3 Payment of Obligations 49
6.4 Maintenance of Existence; Compliance 49
6.5 Maintenance of Property; Insurance 49
6.6 Inspection of Property; Books and Records; Discussions 50
6.7 Notices 50
6.8 Environmental Laws 51
6.9 Additional Collateral, etc 51
6.10 Compliance with Laws ~~53~~54
6.11 Chief Restructuring Officer. 54

SECTION 7. NEGATIVE COVENANTS 54

7.1 Liens, Etc 54
7.2 Indebtedness 56
7.3 Changes in Nature of Business ~~57~~58
7.4 Mergers, Etc 58
7.5 Sales, Etc., of Assets ~~58~~59
7.6 Investments in Other Persons 60
7.7 Restricted Payments ~~60~~61
7.8 Amendments of Constitutive Documents and Exit First Lien Facility 62
7.9 Accounting Changes ~~62~~63
7.10 Prepayments, Etc., of Indebtedness ~~62~~63
7.11 Negative Pledge ~~62~~63
7.12 Holding Company 63
7.13 Payment Restrictions Affecting Subsidiaries 64
7.14 Transactions with Affiliates 64
7.15 Use of Proceeds ~~64~~65
7.16 Capital Expenditures 65
7.17 Financial Covenants 65

SECTION 8. EVENTS OF DEFAULT 66

SECTION 9. THE AGENT 69

Page

9.1	Appointment	69
9.2	Delegation of Duties	69
9.3	Exculpatory Provisions	69
9.4	Reliance by Administrative Agent	~~69~~70
9.5	Notice of Default	70
9.6	Non-Reliance on Administrative Agent and Other Lenders	70
9.7	Indemnification	~~70~~71
9.8	Administrative Agent in Its Individual Capacity	71
9.9	Successor Administrative Agent	71
SECTION 10.	MISCELLANEOUS	~~71~~72
10.1	Amendments and Waivers	~~71~~72
10.2	Notices	~~73~~74
10.3	No Waiver; Cumulative Remedies	~~74~~75
10.4	Survival of Representations and Warranties	~~74~~75
10.5	Payment of Expenses	~~74~~75
10.6	Successors and Assigns; Participations and Assignments	~~75~~76
10.7	Adjustments; Set-off	~~78~~79
10.8	Counterparts	~~79~~80
10.9	Severability	~~79~~80
10.10	Integration	~~79~~80
10.11	**GOVERNING LAW**	~~79~~80
10.12	Submission To Jurisdiction; Waivers	~~79~~80
10.13	Acknowledgements	~~80~~81
10.14	Releases of Guarantees and Liens	~~80~~81
10.15	Confidentiality	81
10.16	WAIVERS OF JURY TRIAL	~~81~~82
10.17	USA Patriot Act	~~81~~82
10.18	Intercreditor Agreement	~~81~~82
10.19	Acknowledgement and Consent to Bail-In of EEA Financial Institutions	82

[SCHEDULES:

~~1.1A~~2.1 Commitments
4.4 Consents, Authorizations, Filings and Notices
4.9(a) Owned Real Property
4.9(b) Leased Real Property (Lessee)
4.9(c) Leased Real Property (Lessor)
4.10 Intellectual Property
4.16 Subsidiaries
4.20~~(a) UCC Filing Jurisdictions 4.20(b) Mortgage~~ Filing Jurisdictions
4.23 Insurance
7.1(c) Existing Liens
7.2(a) Existing Indebtedness
7.6(c) Existing Investments]

~~[~~EXHIBITS:

A ~~[Reserved]~~Form of Promissory Notes
B Form of Compliance Certificate
C Form of Closing Certificate
D Form of Secretary's Certificate
E ~~[Reserved]~~Form of Notice of Borrowing
F Form of Assignment and Assumption
G ~~[Reserved]~~Form of Notice of Conversion
H Forms of U.S. Tax Compliance Certificates
~~I [Reserved]~~
~~J [Reserved]]~~

THIS SECOND LIEN CREDIT AGREEMENT (this "Agreement"), dated as of [___], 2016, among Logan's Roadhouse, Inc., a Tennessee corporation and as reorganized pursuant to the Plan of Reorganization referred to below (the "Borrower"), LRI Holdings, Inc., a Delaware corporation and as reorganized pursuant to the Plan of Reorganization ("Holdings"), Logan's Roadhouse of Kansas, Inc., a Kansas corporation and as reorganized pursuant to the Plan of Reorganization ("Logan's Kansas"), Logan's Roadhouse of Texas, Inc., a Texas corporation and as reorganized pursuant to the Plan of Reorganization ("Logan's Texas"), the other Guarantors from time to time party hereto, the several banks and other financial institutions or entities from time to time parties to this Agreement (the "Lenders"), and Cortland Capital Market Services LLC ("Cortland"), as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent").

RECITALS:

WHEREAS, Holdings, the Borrower and the other Loan Parties party thereto are party to the Debtor-in-Possession Credit Agreement, dated as of August 10, 2016 (as amended, restated, supplemented or otherwise modified prior to the date hereof, the "DIP Credit Agreement") among Holdings, the Borrower, the other Loan Parties party thereto, the lenders from time to time party thereto, and Cortland, as administrative agent thereunder;

WHEREAS, on August 8, 2016 (the "Petition Date"), the Debtors (as defined in the Plan of Reorganization, the "Debtors") filed voluntary petitions with the Bankruptcy Court initiating their respective cases and continued in the possession of their assets and in the management of their business pursuant to Sections 1107 and 1008 of the Bankruptcy Code (the "Chapter 11 Cases");

WHEREAS, the Debtors filed the Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code and the related Disclosure Statement for Debtors' First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (as amended or otherwise modified in accordance with its terms, the "Plan of Reorganization") and a related Disclosure Statement, with the Bankruptcy Court on September 28, 2016;

WHEREAS, pursuant to the Plan of Reorganization and the DIP Credit Agreement and subject to the terms and conditions set forth in this Agreement, on the Closing Date, (i) the ~~outstanding principal, accrued and unpaid interest and all other~~Existing Obligations (as defined ~~in the DIP Credit Agreement) under the DIP Credit Agreement (other than contingent indemnification and expense reimbursement obligations for which no claim has been made~~below) shall be deemed to be repaid with the proceeds of the Rollover Term Loans borrowed hereunder ~~(except as set forth in the following clause (ii))~~, (ii) all outstanding Obligations (as defined in the DIP Credit Agreement) owing to the Administrative Agent (as defined in the DIP Credit Agreement) shall be paid in full in cash and (iii) the Designated Lenders shall extend additional term loans to the Borrower on the Closing Date in an aggregate principal amount of $3,500,000;

WHEREAS, on [___], 2016, the Bankruptcy Court entered the confirmation order confirming the Plan of Reorganization (the "Confirmation Order"), which, *inter alia* authorized and approved Debtors' entry into and performance under this Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto hereby agree as follows:

SECTION 1. DEFINITIONS

1.1 Defined Terms. As used in this Agreement, the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Eurodollar Rate that would be calculated as of such day (or, if such day is not a Business Day, as of the next preceding Business Day) in respect of a proposed Eurodollar Loan with a one-month Interest Period plus 1.0%. Any change in the ABR due to a change in the Prime Rate, the NYFRB Rate or such Eurodollar Rate shall be effective as of the opening of business on the day of such change in the Prime Rate, the NYFRB Rate or such Eurodollar Rate, respectively.

"ABR Loans": Loans the rate of interest applicable to which is based upon the ABR.

"Additional Term Loan Commitment": as defined in Section 2.1(a).

"Additional Term Loans": as defined in Section 2.1(a).

"Administrative Agent": as defined in the preamble hereto.

"Affiliate": as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Loan Party or of any Subsidiary of a Loan Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such Person or (b) direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

~~[~~"Agent Fee Letter": ~~[___].]~~that certain Credit Facility Agent Fee Letter, dated [•], 2016, between Cortland Capital Market Services LLC, and the Borrower, regarding fees payable under this credit facility.

"Agent Indemnitee": as defined in Section 9.7.

"Agreement": as defined in the preamble hereto.

"Anti-Corruption Laws": all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Applicable Margin": (a) in the case of ABR Loans, 7.50% per annum and (b) in the case of Eurodollar Loans, 8.50% per annum.

"Approved Fund": as defined in Section 10.6(b).

"Assignee": as defined in Section 10.6(b).

"Assignment and Assumption": an Assignment and Assumption, substantially in the form of Exhibit F or any other form approved by the Administrative Agent.

"Attributable Indebtedness": in respect of a sale and leaseback transaction, as at the time of determination, the present value (discounted at the interest rate implicit in the transaction) of the total

obligations of the lessee for rental payments during the remaining term of the lease included in such sale and leaseback transaction (including any period for which such lease has been extended), determined in accordance with GAAP; provided, however, that (i) if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligations" and (ii) obligations under lease arrangements entered into in connection with property that is the subject of a sale and leaseback transaction shall not be considered Attributable Indebtedness to the extent such obligations would not appear as an obligation or liability on the balance sheet of the Borrower for purposes of GAAP.

"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.

"Bankruptcy Code": title 11 of the United States Code, as heretofore and hereafter amended, codified as 11 U.S.C. §§ 101 *et seq*.

"Bankruptcy Court": the United States Bankruptcy Court for the District of Delaware or any other court having jurisdiction over the Chapter 11 Cases from time to time.

"Bankruptcy Event": with respect to any Person, such Person or its Parent becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Benefitted Lender": as defined in Section 10.7(a).

"Board": the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower": as defined in the preamble hereto.

"Borrowing Date": any Business Day specified by the Borrower as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

"Business": as defined in Section 4.18(b).

"Business Day": a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close, provided, that with respect to notices

and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

"Capital Expenditures": for any Person for any period, the sum of, without duplication, (a) all expenditures made, directly or indirectly, by such Person or any of its Subsidiaries during such period for equipment, fixed assets, real property or improvements, or for replacements or substitutions therefor or additions thereto, that have been or should be, in accordance with GAAP, reflected as additions to property, plant or equipment on a consolidated balance sheet of such Person (excluding (i) Capital Expenditures financed with Indebtedness, including pursuant to any Capital Lease Obligations and (ii) capitalized interest) minus (b) the aggregate amount of reimbursements or other landlord improvement contributions actually received by such Person in cash from the landlord during such period. For purposes of this definition, the purchase price of any fixed or capital asset that is acquired in exchange for, or with the proceeds from the sale of, existing fixed or capital assets, or with condemnation proceeds or insurance proceeds shall be included in Capital Expenditures only to the extent of the gross amount of such purchase price exceeds the credit granted by the seller of such asset for the assets being exchanged therefor or the amount of such sale, condemnation or insurance proceeds, as the case may be. The term Capital Expenditures, in any event, shall not include any expenditures that otherwise would constitute capital expenditures made or paid with the net proceeds of amounts paid or contributed after the date hereof to Holdings by any Person who is or thereby becomes a permitted holder of Capital Stock of Holdings, which amounts are contributed through Holdings to the common equity capital of the Borrower.

"Capital Lease Obligations": as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP as in effect on the date hereof and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP as in effect on the date hereof.

"Capital Stock": any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Carl Marks" ~~means~~; Carl Marks Management Company, LLC.

"Carl Marks Entity" ~~means~~; Carl Marks or its Affiliates and Approved Funds as the context may require.

"Cash Equivalents": (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of six months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000; (c) commercial paper of an issuer rated at least A-1 by S&P or P-1 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days, with respect to securities issued or fully guaranteed or insured by the United States

government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000.

"Change in Law": the occurrence, after the date of this Agreement (or with respect to any Lender, if later, the date on which such Lender becomes a Lender), of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided however, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III (but not Basel II), shall in each case be deemed to be a "Change in Law", regardless of the date enacted, issued, adopted, promulgated or implemented.

"Change of Control": (i) prior to an IPO, (x) the Permitted Investors in the aggregate cease to be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of Voting Stock of the Borrower or any direct or indirect parent entity of the Borrower (the "Relevant Parent") (as applicable) representing a majority of the voting power of the total outstanding Voting Stock of the Borrower or any such Relevant Parent (as applicable) and (y) the Designated Lenders shall, collectively, cease to have or exercise the power to elect a majority of the board of directors or other managing body (in number or voting power) of Holdings or its ~~direct or indirect parent~~Relevant Parent; (ii) upon and following an IPO, any "person" or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), other than a "person" or "group" including one or more Permitted Investors becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of 35% or more in the aggregate of the total voting power of the Voting Stock of the Borrower or any Relevant Parent (as applicable), whether as a result of the issuance of securities of the Borrower or such Relevant Parent (as applicable), any merger, consolidation, liquidation or dissolution of the Borrower or such Relevant Parent (as applicable), any direct or indirect transfer of securities by any Permitted Investor or otherwise, (iii) during any period of two consecutive years (during which period the Borrower has been a party to this Agreement), Continuing Directors shall cease for any reason to constitute a majority of such board of directors then in office; (iv) the Borrower ceases to be a Wholly Owned Subsidiary of Holdings or a direct or indirect Subsidiary of any Relevant Parent; (v) a "change of control" however so defined (after giving effect to any waivers) in any Exit First Lien Loan Documents, any documents, agreements or instruments evidencing or governing any Indebtedness subordinated to the Obligations, or any other defined term having a similar purpose shall have occurred; or (vi) a sale of all or substantially all of the assets of the Borrower or the Group Members.

"Chapter 11 Cases": as defined in the recitals hereto.

"Closing Date": the date on which the conditions precedent set forth in Section 5.1 shall have been satisfied, which is [___], 2016.

"Closing Date Term Loans": as defined in Section 2.1(a).

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

"Collateral": all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

"Commitment": as defined in Section 2.1(a).

"Compliance Certificate": a certificate duly executed by a Responsible Officer substantially in the form of Exhibit B.

"Conduit Lender": any special purpose corporation organized and administered by any Lender for the purpose of making Loans otherwise required to be made by such Lender and designated by such Lender in a written instrument; provided, that the designation by any Lender of a Conduit Lender shall not relieve the designating Lender of any of its obligations to fund a Loan under this Agreement if, for any reason, its Conduit Lender fails to fund any such Loan, and the designating Lender (and not the Conduit Lender) shall have the sole right and responsibility to deliver all consents and waivers required or requested under this Agreement with respect to its Conduit Lender, and provided, further, that no Conduit Lender or ~~designated~~designating Lender shall (a) be entitled to receive any greater amount pursuant to Sections 2.13, 2.14, 2.15 or 10.5 than the designating Lender would have been entitled to receive if the extensions of credit made by such Conduit Lender were made by the designating Lender or (b) be deemed to have any Commitments.

"Confirmation Order": as defined in the recitals hereto.

"Consolidated EBITDA": for any period, (a) Consolidated Net Income for such period plus (b) without duplication and in each case solely to the extent deducted in determining such Consolidated Net Income for such period, the sum of (i) Consolidated Interest Expense, (ii) income tax expense, (iii) depreciation and amortization expense, (iv) extraordinary or non-recurring non-cash losses or charges (calculated in accordance with GAAP), (v) extraordinary or non-recurring cash charges related to any store closures, systems implementations, or other litigation related expenses in an aggregate amount not to exceed $500,000 in any fiscal year (whether payable during such period or in a subsequent period, and determined in accordance with GAAP), (vi) non-cash stock based compensation expenses, (vii) expenses (including termination payments) related to interest rate Swap Agreements, (viii) Preopening Costs associated with new restaurant store openings, not to exceed $300,000 in the aggregate per restaurant, (ix) all expenses incurred through the Closing Date that are associated with the Transaction and the Chapter 11 Cases, plus other expenses associated with the Transaction and the Chapter 11 Cases that are incurred between the Closing Date and the date that is three months after the Closing Date in an aggregate amount not to exceed $500,000, (x) expenses and adjustments related to purchase accounting or fresh start accounting, (xi) [all expenses related to the employment of a Chief Restructuring Officer pursuant to the terms of this Agreement~~]~~ (A) in an amount not to exceed [___]] and (B) incurred between the Closing Date and the date that is six months after the Closing Date, (xii) ~~[~~severance and executive search costs incurred through the Closing Date and severance and executive search costs incurred after the Closing Date not to exceed $1,000,000 in the aggregate~~]~~ and (xiii) reasonable non-cash rent expense and non-recurring fees, expenses or charges during such period related to any investment, acquisition, asset sales, debt incurrence or equity issuance (in each case, whether or not completed), minus, (c) without duplication and to the extent included in determining such

Consolidated Net Income, the sum of (i) any extraordinary non-cash gains and (ii) any gains (or plus losses) realized in connection with any disposition of property (other than any gains which represent the reversal of a reserve accrued for the payment of cash charges in any future period and any gains from sales of inventory in the ordinary course of business) and (iii) any gains (including cash termination payments received) relating to interest rate Swap Agreements ~~minus (d) the amount of all cash payments made in such period to the extent that such payments relate to any reserve or similar non-cash charge incurred in a previous period that was added back in determining Consolidated EBITDA hereunder pursuant to the preceding subclause (b) (but excluding any cash severance payments up to an aggregate amount of $1,000,000 in any fiscal year)~~; provided that, Consolidated EBITDA for such period shall not include the cumulative effect of a change in accounting principles during such period. For purposes of this Agreement, Consolidated EBITDA shall be adjusted on a pro forma basis, as determined reasonably and in good faith by the Borrower and including as of the first day of any applicable period, for any Permitted Dispositions closed during such period, and, for any inter-period test, Permitted Dispositions closed subsequent to such period and prior to the relevant test date, including, without limitation, to the extent that such costs and expenses were deducted in determining Consolidated EBITDA hereunder, adjustments reflecting any non-recurring costs and any extraordinary expenses of any Permitted Dispositions closed during such period, and fees and expenses related thereto, and to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from such Permitted Disposition or other similar transaction, calculated on a basis consistent with GAAP and Regulation S-X of the Securities Exchange Act of 1934, as amended, or that are determined in good faith by a reasonable financial or accounting officer of the Borrower; provided that such calculations are set forth in an Officer's Certificate signed by the Borrower's Chief Financial Officer or Vice President of Finance if the Chief Financial Officer position is vacant stating (i) that such calculations are based on the reasonable good faith beliefs of the officer executing such Officer's Certificate at the time of such execution and (ii) any related incurrence of Indebtedness is permitted pursuant to this Agreement.

"Consolidated Interest Expense": for any period, the total interest expense of the Borrower and its Subsidiaries, whether paid or accrued, plus, to the extent not included in such interest expense:

(a) interest expense attributable to Capital Lease Obligations and the interest portion of rent expense associated with Attributable Indebtedness in respect of the relevant lease giving rise thereto, determined as if such lease were a capitalized lease in accordance with GAAP and the interest component of any deferred payment obligations;

(b) amortization of debt discount (including the amortization of original issue discount resulting from the issuance of Indebtedness at less than par) and debt issuance cost; provided, however, that any amortization of bond premium will be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such amortization of bond premium has otherwise reduced Consolidated Interest Expense;

(c) non-cash interest expense, but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of obligations under Specified Swap Agreements (or other derivative instruments pursuant to GAAP);

(d) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;

(e) interest actually paid by the Borrower or any such Subsidiary under any guarantee of Indebtedness or other obligation of any other Person;

(f) costs associated with Specified Swap Agreements (including amortization of fees) related to Indebtedness provided, however, that if Specified Swap Agreements result in net benefits rather than costs, such benefits shall be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such net benefits are otherwise reflected in Consolidated Net Income;

(g) the interest expense of such Person and its Subsidiaries that was capitalized during such period;

(h) the product of (i) all dividends paid or payable, in cash, Cash Equivalents or Indebtedness or accrued during such period on any series of Disqualified Stock of such Person or on Preferred Stock of the Subsidiaries that are not Subsidiary Guarantors payable to a party other than the Borrower or a Wholly Owned Subsidiary, times (ii) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state, provincial and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP; and

(i) the cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than the Borrower and its Subsidiaries) in connection with Indebtedness incurred by such plan or trust.

"Consolidated Net Income": for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP.

["Continuing Directors": the directors of Holdings on the Closing Date, after giving effect to the Confirmation Order and the transactions contemplated hereby and thereby, and each other director, if, in each case, such other director's nomination for election to the board of directors of Holdings is recommended by at least a majority of the then Continuing Directors or such other director receives the vote of the Permitted Investors in his or her election by the shareholders of Holdings.]

"Contractual Obligation": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control Investment Affiliate": as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Cortland": as defined in the preamble hereto.

"Debtors": as defined in the recitals hereto.

"Default": any of the events specified in Section 8, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Defaulting Lender": any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) [reserved] or (iii) pay over to the Administrative Agent or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is

the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or the Administrative Agent or any Lender in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied), (c) has failed, within three Business Days after request by the Administrative Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon ~~such~~the Administrative Agent's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, (d) has become the subject of a Bankruptcy Event or (e) or has a direct or indirect parent company that has, become the subject of a Bail-In Action.

"Designated Lenders": At any time, Carl Marks, Marblegate, GSO and Kelso and any Carl Marks Entity, GSO Entity, Marblegate Entity and Kelso Entity that holds the Loans.

"DIP Credit Agreement": as defined in the recitals hereto.

"DIP Facility": the $75,000,000 debtor-in-possession financing pursuant to the DIP Credit Agreement.

"DIP ~~Financing": the New Money Facility and Roll Up Facility~~ Lender" and "DIP Lenders": "Lender" and "Lenders" under, and as defined in, the DIP Credit Agreement.

"Disposition": with respect to any property, any sale, lease, sale and leaseback, assignment, conveyance, transfer or other disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Disposition Threshold": as defined in Section 2.6(b).

"Disqualified Stock": with respect to any Person, any Capital Stock of such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event: (a) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, (b) is convertible into or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Borrower or a Subsidiary (it being understood that upon such conversion or exchange it shall be an incurrence of such Indebtedness or Disqualified Stock)), or (c) is redeemable at the option of the holder of the Capital Stock in whole or in part, in each case on or prior to the date 91 days after the final scheduled maturity date of the Loans; provided, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock; provided, further that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Borrower to repurchase such Capital Stock upon the occurrence of a change of control or asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities into which it is convertible or exchangeable or for which it is redeemable or exchangeable) provide that the Borrower may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is ratable or exchangeable), pursuant to such provisions prior to compliance by the Borrower with the provisions of Section 7.10 and unless such repurchase or redemption complies with Section 7.7.

"Dollars" and "$": dollars in lawful currency of the United States.

"EEA Financial Institution": (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition and is subject to the supervision of an EEA Resolution Authority, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision of an EEA Resolution Authority 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 any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Environmental Laws": any and all foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health affected by exposure to Materials of Environmental Concern, including those relating to waste disposal, as now or may at any time hereafter be in effect.

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

"ERISA Affiliate": any entity, whether or not incorporated, that is under common control with a Group Member within the meaning of Section 4001(a)(14) of ERISA or any trade or business (whether or not incorporated) that, together with any Group Member, is treated as a single employer under Section 414 of the Code.

"ERISA Event": (a) any Reportable Event; (b) the existence with respect to any Plan maintained by a Loan Party of a Prohibited Transaction; (c) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 or 430 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure by any Group Member or any ERISA Affiliate to make any required contribution to a Multiemployer Plan; (e) the incurrence by any Group Member or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Pension Plan; (f) a determination that any Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (g) the receipt by any Group Member or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan under Section 4042 of ERISA; (h) the incurrence by any Group Member or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan or Multiemployer Plan; or (i) the receipt by any Group Member or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from a Group Member or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, Insolvent or in endangered

or critical status (within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA) or in "critical and declining" status (within the meaning of Section 305 of ERISA).

"EU Bail-In Legislation Schedule": the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Eurocurrency Reserve Requirements": for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

"Eurodollar Base Rate": with respect to any Eurodollar Loan for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period as displayed on ~~pages LIBOR01 or LIBOR02 of the Reuters~~the applicable Bloomberg screen that displays such rate (or, in the event such rate does not appear on a ~~Reuters~~Bloomberg page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the "Eurodollar Screen Rate") at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that if the Eurodollar Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; provided further, that if the Eurodollar Screen Rate shall not be available at such time for such Interest Period (an "Impacted Interest Period") then the Eurodollar Base Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Eurodollar Loans": Loans the rate of interest applicable to which is based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum equal to the greater of (x) 1.00% and (y) determined for such day in accordance with the following formula:

$$\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

"Eurodollar Tranche": the collective reference to Eurodollar Loans, the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

"Event of Default": any of the events specified in Section 8, provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

"Exchange Act": the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Excluded Litigation": (i) *Carey Bradford and Cody Bolen Individually and on behalf of Similarly Situated Current and Former Employees v. Logan's Roadhouse Inc., et al.*, Case No.

3:14-CV-02184, currently pending in the United States District Court for the Middle District of Tennessee and (ii) *Chad Elchert and Tammy Crochet vs. LRI Holdings, Inc. and Logan's Roadhouse, Inc.*, Case No. 3:16-CV-0564, currently pending in the United States District Court for the Middle District of Tennessee.

"Excluded Taxes": any of the following Taxes imposed on or with respect to the Administrative Agent or any Lender: (a) franchise Taxes, branch profits Taxes or Taxes imposed on or measured by the net income (however denominated) of the Administrative Agent or such Lender in each case that are imposed as a result of a present or former connection between the Administrative Agent or such Lender and the jurisdiction of the Governmental Authority imposing such Taxes or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) in the case of the Administrative Agent or any Lender (other than an assignee pursuant to a request by the Borrower under Section 2.17), any U.S. Federal withholding Taxes resulting from any Requirement of Law enacted on or prior to (or otherwise in effect on) the date the Administrative Agent or such Lender becomes a party to this Agreement (or designates a new lending office) (or if such Person is an intermediary, partnership or other flow through entity for applicable Tax purposes and the Taxes relate to a beneficiary or member of such Person, such date shall be the date on which the relevant beneficiary or member became such a beneficiary or member, if later), except to the extent that the Administrative Agent or such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment) (or if such Person is an intermediary, partnership or other flow through entity for applicable Tax purposes and the Taxes relate to a beneficiary or member of such Person, at the time on which the relevant beneficiary or member became such a beneficiary or member, if later), to receive additional amounts from the Borrower with respect to such withholding Taxes pursuant to Section 2.14(a), (c) any Taxes attributable to the Administrative Agent's or such Lender's failure to comply with Section 2.14(e) and (d) any U.S. Federal withholding Taxes imposed as a result of FATCA.

"Existing Obligations": the outstanding principal, accrued and unpaid interest and all other Obligations (as defined in the DIP Credit Agreement) under the DIP Credit Agreement (other than (a) contingent indemnification and expense reimbursement obligations under the DIP Credit Agreement for which no claim has been made ~~and~~, (b) any outstanding Obligations (as defined in the DIP Credit Agreement) owing to the Administrative Agent (as defined in the DIP Credit Agreement) (other than contingent indemnification and expense reimbursement obligations under the DIP Credit Agreement for which no claim has been made) and (c) any Obligations (as defined in the DIP Credit Agreement) under the Roll Up Facility for which the applicable DIP Lender did not surrender its Pre-Petition Indenture Notes (as defined in the DIP Credit Agreement) that were deemed exchanged for such Roll Up Facility Obligations (as defined in the DIP Credit Agreement) in accordance with the Plan of Reorganization) immediately prior to the effectiveness of this Agreement.

"Exit First Lien Agent": the "Administrative Agent" as defined in the Exit First Lien Agreement (which on the Closing Date is JPMorgan Chase Bank, N.A.).

"Exit First Lien Agreement": the First Lien Revolving Credit Agreement, dated as of the date hereof, among Holdings, the Borrower, ~~[ ]~~the other Loan Parties from time to time party thereto, the lenders from time to time party thereto and the Exit First Lien Agent, as amended, modified, supplemented, restated, replaced or refinanced in accordance with this Agreement and the Intercreditor Agreement.

"Exit First Lien Facility": the revolving loan facility provided under the Exit First Lien Agreement.

"Exit First Lien Loan Documents": "Loan Documents" under, and as defined in, the Exit First Lien Agreement.

"Exit First Lien Obligations": "Obligations" under, and as defined in, the Exit First Lien Agreement.

~~"Exit Third Lien Notes": means the "New Secured Notes" as defined in the Plan of Reorganization, but solely to the extent issued pursuant to the Plan of Reorganization.~~

"FATCA": Section 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor provisions thereto that are substantially comparable), including any regulations promulgated thereunder or official interpretations thereof issued after the date of this Agreement.

"Federal Funds Effective Rate": for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System ~~arranged by federal funds brokers~~on such day, as published on the next succeeding Business Day by the NYFRB, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by ~~JPMorgan Chase Bank, N.A.~~the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"Flood Insurance Laws" ~~means,~~: collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"Foreign Subsidiary": any Subsidiary of the Borrower that is not organized under the laws of the United States of America or any state or territory thereof or the District of Columbia and any Subsidiary of such Subsidiary.

"Foreign Subsidiary Holding Company": any Subsidiary organized under the laws of the United States of America or any state or territory thereof or the District of Columbia, substantially all of the assets of which consist of equity of one or more Subsidiaries that are "controlled foreign corporations" within the meaning of Section 957 of the Code.

"Funding Office": the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

"GAAP": generally accepted accounting principles in the United States of America as in effect as of the Closing Date, including those set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as approved by a significant segment of the accounting profession. All ratios and computations based on GAAP contained in this Agreement and the other Loan Documents will be computed in conformity with GAAP. For the avoidance of doubt, all calculations, ratios and computations with respect to leases contained in this Agreement and the other Loan Documents will be computed in conformity with GAAP as in effect as of the Closing Date.

"Governmental Authority": any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Group Members": the collective reference to Holdings, the Borrower and their respective Subsidiaries.

"GSO" ~~means~~: GSO Capital Partners LP.

"GSO Entity" ~~means~~: GSO or its Affiliates and Approved Funds, including GSO / Blackstone Debt Funds Management LLC, as the context may require.

"Guarantee and Collateral Agreement": that certain Guarantee and Collateral Agreement, dated as of the date hereof, made by Holdings, the Borrower and each Subsidiary Guarantor, in favor of the Administrative Agent for the benefit of the Secured Parties, and each accession, assumption, supplement or joinder thereto.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing Person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantors": the collective reference to Holdings and the Subsidiary Guarantors.

"Holdings": as defined in the preamble hereto.

"Impacted Interest Period": as defined in the definition of "Eurodollar Base Rate".

"Indebtedness": with respect to any Person on any date of determination (without duplication):

(a) the principal of and premium (if any) in respect of indebtedness of such Person for borrowed money;

(b) the principal of and premium (if any) in respect of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(c) the principal component of all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (including reimbursement obligations with respect thereto, except to the extent such letter of credit, bankers' acceptance or other similar instrument relates to a trade payable and any such reimbursement obligation is satisfied within 30 days of incurrence);

(d) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property, which purchase price is due after the date of placing such property in service or taking delivery and title thereto, except any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business;

(e) Capital Lease Obligations and all Attributable Indebtedness of such Person;

(f) the principal component or liquidation preference of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary that is not a Subsidiary Guarantor, any Preferred Stock (but excluding, in each case, any accrued dividends);

(g) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided, however, that the amount of such Indebtedness will be the lesser of (a) the fair market value of such assets at such date of determination and (b) the amount of such Indebtedness of such other Persons;

(h) the principal component of Indebtedness of other Persons to the extent guaranteed by such Person (whether or not such items would appear on the balance sheet of the guarantor or obligor);

(i) to the extent not otherwise included in this definition, net obligations of such Person under any Specified Swap Agreement (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such Obligation that would be payable by such Person at such time); and

(j) to the extent not otherwise included in this definition, the amount of obligations outstanding under the legal documents entered into as part of a securitization transaction or series of securitization transactions that would be characterized as principal if such transaction were structured as a secured lending transaction rather than as a purchase outstanding relating to a securitization transaction or series of securitization transactions.

provided, however, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (i) contingent obligations, incurred in the ordinary course of business and not in respect of borrowed money; (ii) deferred or prepaid revenues; or (iii) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller.

"Indemnitee": as defined in Section 10.5.

"Indemnified Liabilities": as defined in Section 10.5.

"Insolvency": with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent": pertaining to a condition of Insolvency.

"Intellectual Property": the collective reference to all rights, priorities and privileges relating to intellectual property arising under United States multinational or foreign laws or otherwise, including, without limitation, copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, domain names, technology, trade secrets and know-how, all registrations and applications thereof, and all rights to sue at law or in equity for any past, present or future infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercreditor Agreement": that certain Intercreditor Agreement, dated as of the date hereof, among the Administrative Agent, the Exit First Lien Agent ~~[and the administrative agent for the holders of the Exit Third Lien Notes]~~and the other parties thereto from time to time and acknowledged by the Loan Parties, as the same may be amended, modified, supplemented or restated from time to time in accordance with its terms.

"Interest Payment Date": (a) as to any ABR Loan, the first Business Day following the last day of each fiscal quarter of the Borrower (or, if an Event of Default is in existence, the last ~~day~~Business Day of each calendar month) to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day that is three months, or a whole multiple thereof, after the first day of such Interest Period and the last day of such Interest Period and (d) as to any Loan, the date of any repayment or prepayment made in respect thereof.

"Interest Period": as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not later than 11:00 A.M., New York City time, on the date that is three Business Days prior to the last day of the then current Interest Period with respect thereto; provided that, all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period that would extend beyond the Maturity Date;

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

(iv) the Borrower shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

"Interpolated Rate": at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the Eurodollar Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Eurodollar Screen Rate for the longest period for which the Eurodollar Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the Eurodollar Screen Rate for the shortest period (for which that Eurodollar Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

"Investments": as defined in Section 7.6.

"IPO": the issuance or sale by the Borrower or any Relevant Parent of the Borrower of its Voting Stock in an underwritten primary or secondary public offering after the Closing Date pursuant to an effective registration statement filed with the SEC (whether alone or in connection with a secondary public offering) in accordance with the Securities Act.

"IRS": as defined in Section 2.14(e).

"Kelso": Kelso & Company, L.P.

"Kelso Entity": Kelso or its Affiliates and Approved Funds as the context may require.

"Lenders": as defined in the preamble hereto; provided, that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include any Conduit Lender.

"Lien": any 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 any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"Liquidity": as of any date of determination, the sum of (i) Unrestricted Cash at such date and (ii) the Total Undrawn Commitments at such date.

"Loan Documents": this Agreement, the Security Documents, the Notes, ~~[~~the Agent Fee Letter~~]~~, any other document executed by or on behalf of a Loan Party that is delivered to the Administrative Agent or any of the other Secured Parties in connection with any of the foregoing, and any amendment, waiver, supplement or other modification to any of the foregoing.

"Loan Parties": the Borrower and the Guarantors.

"Loans": the loans made by the Lenders to the Borrower pursuant to Section 2.1 plus any PIK Interest or Upfront Commitment Fee, in each case, capitalized and added to the principal amount thereof.

"Management Investor": the officers, directors, employees and other members of the management of any direct or indirect parent entity, the Borrower or any of its Subsidiaries, or family members or relatives thereof, or trusts or partnerships for the benefit of any of the foregoing, or any of

their heirs, executors, successors and legal representatives, who at any date beneficially own or have the right to acquire, directly or indirectly, Capital Stock of the Borrower or its direct or indirect parent entity.

"Marblegate" ~~means~~; Marblegate Asset Management, LLC.

"Marblegate Entity" ~~means~~; Marblegate or its Affiliates and Approved Funds as the context may require.

"Material Adverse Effect": after giving effect to the entry of the Confirmation Order in each case, excluding any event occurring on or prior to the entry of the Confirmation Order, a material adverse effect on (a) the business, operations, financial condition, assets or liabilities (whether actual or contingent) of Holdings, the Borrower and its Subsidiaries, taken as a whole, (b) the validity and enforceability of this Agreement or the other Loan Documents or the rights and remedies of the Administrative Agent and the Lenders under this Agreement or the other Loan Documents or the ability of the Loan Parties to perform their respective material obligations under this Agreement or the other Loan Documents, (c) the Collateral or the attachment, perfection or priority of any Liens granted pursuant to any Loan Document in the Collateral, or (d) the Transactions.

"Materials of Environmental Concern": any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products or any hazardous or toxic substances, materials or wastes, regulated pursuant to or that could give rise to liability under any Environmental Law, including asbestos, polychlorinated biphenyls and urea-formaldehyde insulation.

"Maturity Date": November [__], 2020.

"Maximum Liquidity Amount": $~~[___].~~23,000,000.

"Moody's": Moody's Investors Services, Inc., and any successor in interest to its investment ratings business.

"Mortgaged Properties": the real properties as to which the Administrative Agent for the benefit of the Lenders shall be granted a Lien pursuant to the Mortgages.

"Mortgages": each of the mortgages and deeds of trust made by any Loan Party in favor of, or for the benefit of, the Administrative Agent for the benefit of the Lenders.

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

"New Money Facility": as defined in the DIP Credit Agreement.

"Net Cash Proceeds": in connection with any Disposition or any Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of reasonable attorneys', accountants' and investment banking fees, amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Disposition or Recovery Event (other than any Lien pursuant to a Security Document) and other reasonable and customary fees and expenses actually incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements).

"Non-Excluded Taxes": with respect to any payment made by any Loan Party under any Loan Document, Taxes, other than Excluded Taxes.

"Non-U.S. Lender": as defined in Section 2.14(e).

"Notes": the collective reference to any promissory note evidencing Loans, which promissory notes shall be substantially in the form of Exhibit A.

"Notice of Borrowing": as defined in Section 2.1(a).

"Notice of Conversion": as defined in Section 2.7

"NYFRB": the Federal Reserve Bank of New York.

"NYFRB Rate": for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received ~~to~~by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Obligations": the unpaid principal of and interest on (including, without limitation, PIK Interest and interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Loan Parties to the Administrative Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by any Loan Party pursuant hereto) or otherwise.

"Other Taxes": any and all present or future stamp or documentary taxes or any other excise taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document including any interest, additions to tax or penalties applicable thereto.

"Overnight Bank Funding Rate": for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions (as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

"Owned Real Property": as defined in Section 4.9.

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

"Participant": as defined in Section 10.6(c).

"Participant Register": as defined in Section 10.6(c).

"Patriot Act": as defined in Section 10.17.

"PBGC": the Pension Benefit Guaranty Corporation referred to and defined in Section 4002 of ERISA and any successor entity performing similar functions.

"Pension Plan": any Plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Group Member or any ERISA Affiliate is (or, if such Plan were terminated, would under Section 4062 or 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Permitted Dispositions": asset dispositions permitted in accordance with Sections 7.5(d), (f) and (m) involving assets (in a single transaction or series of related transactions) for consideration of $~~[~~250,000~~]~~ or more.

["Permitted Investors": the collective reference to (a) [the Designated Lenders and their respective Control Investment Affiliates [and (b) the Management Investors (but only with respect to their "beneficial ownership" (within the meaning of 13d-3 and 13d-5 under the Exchange Act) of up to [7%] in the aggregate of the total voting power of the Voting Stock of the Borrower or any direct or indirect parents entity, as the case may be.]

"Permitted Liens": (a) Liens for Taxes, assessments and governmental charges or levies to the extent not required to be paid under Section 6.3; (b) Liens imposed by law, materialmen's, mechanics', carriers', workmen's, processors', landlords' and repairmen's Liens and other similar Liens arising in the ordinary course of business securing obligations that (i) are not overdue for a period of more than 60 days or are being contested in good faith and by appropriate proceedings and as to which appropriate reserves are being maintained and (ii) individually or together with all other Permitted Liens outstanding on any date of determination do not materially adversely affect the use of the property to which they relate; (c) pledges or deposits in the ordinary course of business to secure obligations under workers' compensation laws, unemployment insurance or similar legislation or to secure public or statutory obligations; (d) encumbrances, ground leases, easements, rights of way, zoning restrictions, building codes, restrictions, rights of others, and rights or restrictions of record as to the use of real property and other encumbrances on title to real property (including, without limitation, minor defects or irregularities in title and similar encumbrances) or Liens incidental to the conduct of the business of any Person or to the ownership of its properties that do not in the aggregate materially adversely affect the use of such property in the ordinary course of business; (e) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8(h); and (f) Liens on deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, Liens in favor of issuers of letters of credit or bankers' acceptances or similar obligations, and Liens on deposits as security for import or customs duties or for the payment of utility charges or rent, in each case in the ordinary course of business.

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"Petition Date": as defined in the recitals hereto.

"PIK Election": as defined in Section 2.9(c).

"PIK Interest": as defined in Section 2.9(c).

"Plan": any employee benefit plan as defined in Section 3(3) of ERISA, including any employee welfare benefit plan (as defined in Section 3(1) of ERISA), any employee pension benefit plan (as defined in Section 3(2) of ERISA), and any plan which is both an employee welfare benefit plan and an employee pension benefit plan, and in respect of which any Group Member or any ERISA Affiliate is (or if such Plan were terminated, would under Section 4062 or Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan of Reorganization" as defined in the recitals hereto.

"Preferred Stock": as applied to the Capital Stock of any corporation, Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends upon liquidation, dissolution or winding up.

"Preopening Costs": "start-up costs" (such term used herein as defined in SOP 98-5 published by the American Institute of Certified Public Accountants) related to the acquisition, opening and organizing of new restaurants, including, without limitation, the cost of feasibility studies, staff training and recruiting and travel costs for employees engaged in such start-up activities.

"Prime Rate": the rate ~~of interest per annum publicly announced from time to time~~quoted in the Wall Street Journal Money Rates Section, as the "Prime Rate" in effect from time to time (or if such rate is at any time not available, the prime rate so quoted by any banking institution selected by the Administrative Agent ~~as its prime rate in effect at its principal office in New York City (the Prime Rate not being~~, which rate is not intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors).

"Pro Forma Financial Statements": as defined in Section 4.1(a).

"Pro Rata Share": with respect to each Lender at any time, a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments (or Loans, as applicable) of such Lender hereunder at such time and the denominator of which is the amount of the aggregate Commitments (or aggregate Loans, as applicable) hereunder at such time.

"Prohibited Transaction": as defined in Section 406 of ERISA and Section 4975(c) of the Code.

"Projections": as defined in Section 6.2(c).

"Properties": as defined in Section 4.18(a).

"Real Property Lease": all of the leases of real property under which any Loan Party or any of its Subsidiaries is the lessor or the lessee from time to time.

"Recovery Event": any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of Holdings or any of its Subsidiaries, to the extent that such settlement or payment does not constitute reimbursement or

compensation for amounts previously paid by Holdings or any of its Subsidiaries in respect of such property or casualty claim or condemnation.

"Register": as defined in Section 10.6(b).

"Regulation U": Regulation U of the Board as in effect from time to time.

"Release": with respect to any Materials of Environmental Concern, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, depositing, disposing, dispersing, or migrating into or through the environment or within any building, structure or facility or fixture (including the abandonment or discarding of any barrels, containers or other closed receptacles containing any Materials of Environmental Concern.

"Relevant Parent": as defined in the definition of "Change of Control".

"Reportable Event": any "reportable event," as defined in Section 4043(c) of ERISA or other regulations issued thereunder, other than those events as to which the thirty day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Pension Plan.

"Required Lenders": at any time, the holders of more than 50% of the aggregate unpaid principal amount of the Loans then outstanding, which, in the event that the Designated Lenders are Lenders hereunder, must include at least three of the following: (i) a Carl Marks Entity, (ii) a Marblegate Entity, (iii) a GSO Entity and (iv) a Kelso Entity; provided, that if any such Carl Marks Entity, Marblegate Entity, GSO Entity or Kelso Entity subsequently transfers or otherwise disposes of some or all of its Loans prior to the Maturity Date such that it, together with its Affiliates and Approved Funds, holds less than 5% of all outstanding Loans in the aggregate, such Lender shall be deemed removed from ~~clause (a),~~this definition and ~~clause (a)~~this definition shall be deemed revised to require consent from a majority in interest of the remaining Lenders described therein.

"Requirement of Law": as to any Person, the Certificate of Incorporation and By-Laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation, order or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer": the chief executive officer, president, chief financial officer, chief restructuring officer, vice president, general counsel, treasurer or controller of the Borrower or any individual designated as a "Responsible Officer" for the purpose of this Agreement by the board of directors of the Borrower, but in any event, with respect to financial matters, the chief financial officer (or Vice President of Finance if the chief financial officer position is vacant), treasurer, or controller of the Borrower.

"Restructuring Support Agreement": that certain Restructuring Support Agreement dated as of August 8, 2016, between the Debtors and the Supporting Parties (as defined therein).

"Roll Up Facility": as defined in the DIP Credit Agreement.

"Rollover Term Loan Commitment": as defined in Section 2.1(a).

"Rollover Term Loans": as defined in Section 2.1(a).

"S&P": Standard & Poor's Financial Services LLC.

"Sanctioned Country": at any time, a country, region or territory which is itself the subject or target of any Sanctions (as of the Closing Date, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

"Sanctioned Person": at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanctions": all 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 the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty's Treasury of the United Kingdom.

"SDN List": as defined in Section 4.24(a).

"SEC": the Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Secured Parties": collectively, the Administrative Agent, each Lender, each other Indemnitee and each other holder of any Obligation of any Loan Party, and "Secured Party" shall mean each of them.

"Securities Act": the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Documents": the collective reference to the Guarantee and Collateral Agreement, the Trademark Security Agreement, the Intercreditor Agreement, the Mortgages, any account control agreements and all other security documents hereafter delivered to the Administrative Agent granting or perfecting a Lien on any property of any Person to secure the obligations and liabilities of any Loan Party under any Loan Document.

"Solvent" and "Solvency": with respect to Holdings, the Borrower and its Subsidiaries, taken as a whole, (a) the sum of the debt (including contingent liabilities) of Holdings, the Borrower and its Subsidiaries, taken as a whole, does not exceed the present fair saleable value of the present assets of Holdings, the Borrower and its Subsidiaries, taken as a whole; (b) the capital of Holdings, the Borrower and its Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of Holdings, the Borrower or its Subsidiaries, taken as a whole, contemplated as of the date hereof; and (c) Holdings, the Borrower and its Subsidiaries, taken as a whole, do not intend to incur, or believe that they will incur, debts including current obligations beyond their ability to pay such debt as they mature in the ordinary course of business. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Specified Collateral": as defined in the Guarantee and Collateral Agreement.

"Specified Swap Agreement": as defined in the Exit First Lien Agreement.

"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 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 Subsidiary or Subsidiaries of the Borrower.

"Subsidiary Guarantor": each Subsidiary of the Borrower other than any Foreign Subsidiary and any Foreign Subsidiary Holding Company.

"Swap 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 or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a "Swap Agreement"; provided further that no agreement relating to the purchase of food at a fixed price entered into by the Borrower or its Affiliates shall be a "Swap Agreement".

"Taxes": any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Threshold Properties": as defined in Section 6.9(b).

"Total Undrawn Commitments": as defined in the Exit First Lien Agreement.

"Trademark Security Agreement": that certain [__].

"Transaction Documents": as defined in Section 7.12(a).

"Transactions": with respect to (a) the Borrower, the execution, delivery and performance by the Borrower of its obligations under this Agreement, each other Loan Document to which it is a party, the borrowing of Loans, the use of the proceeds thereof, and the grant of Liens by the Borrower on Properties pursuant to the Security Documents, (b) each Guarantor, the execution, delivery and performance by such Guarantor of each Loan Document to which it is a party, the guaranteeing of the Obligations and the other obligations under the Guarantee and Collateral Agreement by such Guarantor and such Guarantor's grant of the security interests and provision of collateral thereunder, and the grant of Liens by such Guarantor on Properties pursuant to the Security Documents and (c) all Loan Parties, the transactions contemplated by the Exit First Lien Loan Documents entered into on the Closing Date and the consummation of any other transaction contemplated hereby or by any other Loan Document or Transaction Document.

"Transferee": any Assignee or Participant.

"Type": as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.

"United States": the United States of America.

"Unmatured Surviving Obligations": Obligations under this Agreement and the other Loan Documents that by their terms survive the termination of this Agreement or the other Loan Documents but are not, as of the date of determination, due and payable and for which no outstanding claim has been made.

"Unrestricted Cash": at any date of determination, the aggregate amount of cash and Cash Equivalents of the Loan Parties not subject to any contractual restriction (other than a contractual restriction imposed by the Loan Documents) on the application thereof and not subject to any Lien (other than (i) Liens created by the Loan Documents, (ii) Liens permitted by Section 7.1(d) and (iii) Liens permitted by Section 7.1(j)).

"Upfront Commitment Fee": as defined in Section 2.3.

"Voting Stock" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors, managers or trustees, as applicable, of such Person.

"Wholly Owned Subsidiary": as to any Person, any other Person all of the Capital Stock of which (other than directors' qualifying shares required by law) is owned by such Person directly and/or through other Wholly Owned Subsidiaries.

"Withdrawal Liability": any liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

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

1.2 Other Definitional Provisions. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP in effect as of the date hereof (provided that, notwithstanding anything to the contrary herein, all accounting or financial terms used herein shall be construed, and all financial computations pursuant hereto shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar effect) to value any Indebtedness or other liabilities of any Group Member at "fair value", as defined therein), (ii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iii) the word "incur" shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words "incurred" and "incurrence" shall have correlative meanings), (iv) the words "asset" and "property" shall be

construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, and (v) references to agreements (including this Agreement and the other Loan Documents) or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated or otherwise modified from time to time but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(c) The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

SECTION 2. AMOUNT AND TERMS OF LOANS

2.1 Term Loans. (a) Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Loan Parties contained herein, on the Closing Date, (i) the Existing Obligations shall be deemed to be simultaneously repaid under the DIP Credit Agreement and severally (and not jointly or jointly and severally) made hereunder as term loans (the "Rollover Term Loans") by each Lender in an aggregate principal amount as set forth opposite such Lender's name on Schedule 2.1 under the heading "Rollover Term Loan Commitment" (such amount being referred to herein as such Lender's "Rollover Term Loan Commitment") and (ii) the Designated Lenders agree to, severally (and not jointly or jointly and severally) make additional term loans (the "Additional Term Loans" and together with the Rollover Term Loans, the "Closing Date Term Loans") to the Borrower in an aggregate principal amount as set forth opposite such lender's name on Schedule 2.1 under the heading "Additional Term Loan Commitment" (such amount being referred to herein as such Lender's "Additional Term Loan Commitment" and, together with such Lender's Rollover Term Loan Commitment, the "Commitment"; the Commitment of all Lenders are collectively referred to herein as the "Commitments")). Following the making of the Rollover Term Loans, the Rollover Term Loan Commitment of such Lender shall terminate, and following the making of the Additional Term Loans, such Lender's Additional Term Loan Commitment shall terminate. Once funded, each Rollover Term Loan and Additional Term Loan shall be a "Loan" for all purposes hereunder. The Closing Date Term Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent pursuant to a Notice of Conversion in accordance with this Section 2.1 and Section ~~2.9~~2.7. The Closing Date Term Loans ~~[~~shall initially be Eurodollar Loans, with an initial Interest Period of ~~[~~one month~~].]~~. The Borrower shall give the Administrative Agent irrevocable prior written notice substantially in the form of Exhibit E (a "Notice of Borrowing") not later than 11:00 A.M. New York City time three (3) Business Days prior to the Closing Date (or such later time as may be agreed to by the Administrative Agent) of its intention to borrow the Additional Term Loans on the Closing Date. Following receipt of the Notice of Borrowing, the Administrative Agent shall promptly notify each relevant Lender thereof. Each Lender shall make available the amount of its Closing Date Term Loans to the Administrative Agent for the account of the Borrower at the Funding Office prior to ~~3~~1:00 p.m. New York City time on the Closing Date (or such later time as may be agreed to by the Administrative Agent) in funds immediately available to the Administrative Agent~~. Such amount will then be made available to the Borrower by the Administrative Agent~~; provided, that for the avoidance of doubt, each Lender with a Rollover Term Loan Commitment that executes this Agreement shall be deemed to have made its Rollover Term Loans hereunder upon the effectiveness of this Agreement and the Administrative Agent shall make available such amount to the Borrower by crediting the account of

the Borrower on the books of such office with the aggregate of the amounts of the Rollover Term Loans deemed to be made available to the Administrative Agent by the Lenders ~~and in like funds as received by the Administrative Agent~~. Upon receipt by the Administrative Agent of each Lender's Additional Term Loans (other than the portion to be funded by a Defaulting Lender), such amount will then be made available to the Borrower by the Administrative Agent by remittance of such amount to an account designated by the Borrower to the Administrative Agent in writing.

(b) Amounts borrowed as a Loan which are repaid or prepaid may not be re-borrowed.

(c) The Borrower shall repay all outstanding Loans, together with all accrued and unpaid interest thereon, on the Maturity Date.

2.2 Evidence of Closing Date Term Loans. The Closing Date Term Loans are evidenced by this Agreement and, if requested by a Lender, one or more Notes payable to such Lender in an amount equal to the unpaid balance of the Closing Date Term Loans held by such Lender.

2.3 Commitment Fees, etc. (a) The Borrower agrees to pay on the Closing Date to the Administrative Agent for the account of each Lender, a commitment fee (the "Upfront Commitment Fee") in an amount equal to 2.0% of the aggregate principal amount of such Lender's Commitment. Such fee shall be in all respects fully earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter and shall automatically and without further action be added to the outstanding amount of the Loans. The Borrower shall not issue any additional promissory notes to represent such Upfront Commitment Fee, and, in lieu thereof, the Administrative Agent shall keep a ledger of the amount of such Upfront Commitment Fees that have accrued, which ledger shall be presumed to be correct absent manifest error. The Lenders agree to treat, and the Borrower shall report, such Upfront Commitment Fees as original issue discount.

(b) The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in the Agent Fee Letter and in any other fee agreements with the Administrative Agent and to perform any other obligations contained therein.

2.4 [Reserved].

2.5 Optional Prepayments. The Borrower may at any time and from time to time prepay the Loans, in whole or in part, without premium or penalty, upon irrevocable notice delivered to the Administrative Agent no later than 11:00 A.M., New York City time, three Business Days prior thereto (or such shorter period of time as is acceptable to the Administrative Agent), in the case of Eurodollar Loans, and no later than 11:00 A.M., New York City time, one Business Day prior thereto (or such shorter period of time as is acceptable to the Administrative Agent), in the case of ABR Loans, which notice shall specify the date and amount of prepayment and whether the prepayment is of Eurodollar Loans or ABR Loans; provided, that if a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing pursuant to Section 2.15. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with accrued interest to such date on the amount prepaid. Partial prepayments of Loans shall be in an aggregate principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof (or such other amounts as may be agreed to by the Administrative Agent).

2.6 Mandatory Prepayments.

(a) [Reserved].

(b) If on any date (i) any Loan Party or any of its Subsidiaries shall receive Net Cash Proceeds from any Disposition and (ii) the aggregate amount of Net Cash Proceeds received by such Loan Party or any of its Subsidiaries exceeds $[1,500,000] (the "Disposition Threshold") since the Closing Date, then 75% of such Net Cash Proceeds in excess of the Disposition Threshold shall be applied on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds toward the prepayment of the Loans as set forth in Section 2.6(d). Solely to the extent required to be paid under Section 6.5, if on any date the Borrower or any of its Subsidiaries shall receive Net Cash Proceeds from any Recovery Event, such Net Cash Proceeds shall be applied on such date toward the reduction of the prepayment of the Loans as set forth in Section 2.6(d).

(c) Beginning with the fiscal month ending January 31, 2018, to the extent that the Borrower's Liquidity exceeds the Maximum Liquidity Amount on the last day of a fiscal month, the Borrower shall prepay the Loans in the amount of such excess on the date of such measurement.

(d) Amounts to be applied in connection with prepayments made pursuant to this Section 2.6 shall be applied, first, to the outstanding principal amount of the Loans until paid in full and thereafter to the prepayment of any other outstanding Obligations until paid in full. The application of any prepayment pursuant to this Section 2.6 shall be made, first, to ABR Loans and, second, to Eurodollar Loans. Each prepayment of the Loans under this Section 2.6 shall be paid together with any accrued and unpaid interest to such date of prepayment on the amount prepaid.

(e) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Loans required to be made pursuant to this Section 2.6 no later than 12:00 Noon, New York City time, one (1) Business Day prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent shall promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's Pro Rata Share of the prepayment.

(f) Notwithstanding anything herein to the contrary, all amounts required to be prepaid pursuant to ~~this Section~~Sections 2.6(b) and (c) shall be reduced, on a dollar-for-dollar basis, by the amount which is required to be paid pursuant to any corresponding mandatory prepayment provisions set forth in the Exit First Lien Agreement and which is in fact paid or applied to reduce the Exit First Lien Obligations and/or reinvested in accordance with the terms of the Exit First Lien Agreement.

(g) Notwithstanding anything herein to the contrary, the Borrower shall have the right at any time and from time to time to prepay in full the Loans and any other Obligations held by any Lender ~~[~~(other than a Designated Lender)~~]~~ with a Rollover Term Loan Commitment of less than $[__]; provided, that any such prepayment made pursuant to this clause (g) must be made in whole and not in part. Such prepayment shall be made without premium or penalty and shall not be subject to any pro rata sharing requirement set forth herein (including, without limitation, Sections 2.6(e) and 2.12). Upon the receipt by such Lender of such prepayment in full, such Lender shall cease to be a Lender hereunder.

2.7 Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice of such election in the form attached hereto as Exhibit G (a "Notice of Conversion") no later than 11:00 A.M., New York City time, on the Business Day preceding the proposed conversion date, provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent prior irrevocable notice of such election pursuant to a Notice of

Conversion no later than 11:00 A.M., New York City time, on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor), provided that no ABR Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing and the Administrative Agent or the Required Lenders have determined in its or their sole discretion not to permit such conversions. ~~Upon receipt of any such notice~~In the event that the Notice of Conversion does not specify an Interest Period, then the Borrower will be deemed to have selected a [one] month Interest Period. Upon receipt of a Notice of Conversion, the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice to the Administrative Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans, provided that no Eurodollar Loan may be continued as such when any Event of Default has occurred and is continuing and the Administrative Agent has or the Required Lenders have determined in its or their sole discretion not to permit such continuations, and provided, further, that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. In the event that such notice does not specify an Interest Period, the Borrower will be deemed to have selected a [one] month Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.8 Limitations on Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to $[5,000,000] (or such other amount as may be agreed to by the Administrative Agent) or a whole multiple of $[1,000,000] (or such other amount as may be agreed to by the Administrative Agent) in excess thereof and (b) no more than [ten] Eurodollar Tranches shall be outstanding at any one time.

2.9 Interest Rates and Payment Dates. (a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to the Eurodollar Rate determined for such day plus the Applicable Margin.

(b) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(c) Interest shall be payable in arrears on each Interest Payment Date, provided that interest accruing pursuant to paragraph (d) of this Section shall be payable from time to time on demand in cash. So long as no Default or Event of Default shall have occurred and be continuing, on each Interest Payment Date, in lieu of paying the accrued and unpaid interest due on such Interest Payment Date, the Borrower may elect to increase the principal amount of the Loans by the amount of such interest (such election, a "PIK Election" and such interest, the "PIK Interest"); provided that interest to be paid on the Maturity Date or on the date of any other repayment or prepayment of any Loan (whether pursuant to a voluntary or mandatory prepayment, acceleration or otherwise) shall be paid in cash with respect to the amount of the Loans so repaid or prepaid. Upon such election, such interest shall automatically and without further action on the applicable Interest Payment Date be capitalized and added to the then unpaid principal amount of the Loans and shall thereafter be deemed to be a part of the principal amount of the Loans. The Borrower shall not issue any additional promissory notes to represent the PIK Interest,

and, in lieu thereof, the Administrative Agent shall keep a ledger of the amount of PIK Interest that has accrued, which ledger shall be presumed to be correct absent manifest error. If the Borrower makes a PIK Election, the Borrower shall give the Administrative Agent irrevocable notice of such PIK Election (which notice must be received by the Administrative Agent prior to 11:00 A.M., New York City time, (a) three Business Days prior to the Interest Payment Date, in the case of Eurodollar Loans, or (b) ~~one~~two Business ~~Day~~Days prior to the applicable Interest Payment Date, in the case of ABR Loans, or, in each case, such later time as may be agreed to by the Administrative Agent). Upon receipt of any PIK Election from the Borrower, the Administrative Agent shall promptly notify each Lender thereof.

(d) (i) If all or a portion of the principal amount of any Loan shall not be paid when due after giving effect to any applicable grace period (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans plus 2% and (ii) if all or a portion of any interest payable on any Loan or any fee or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum equal to the rate then applicable to ABR Loans plus 2%, in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

2.10 Computation of Interest and Fees. (a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate. Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.11(a).

2.11 Inability to Determine Interest Rate. If prior to the first day of any Interest Period:

(a) the Administrative Agent shall have determined (which determination shall be conclusive and binding upon the Borrower) that, by reason of circumstances affecting the relevant market, adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or

(b) the Administrative Agent shall have received notice from the Required Lenders that the Eurodollar Rate determined or to be determined for such Interest Period will not adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period,

the Administrative Agent shall give ~~telecopy or telephonic~~written notice thereof to the Borrower and the relevant Lenders as soon as practicable thereafter. If such notice is given (x) any Eurodollar Loans requested to be made on the first day of such Interest Period shall be made as ABR Loans, (y) any Loans

that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans shall be made or continued as such, nor shall the Borrower have the right to convert Loans to Eurodollar Loans.

2.12 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) Each payment by the Borrower on account of any commitment fee shall be made pro rata according to the respective Pro Rata Shares of the Lenders.

(b) Each payment (including each prepayment) by the Borrower on account of principal of and interest on Loans shall be made pro rata according to the respective Pro Rata Shares of the Lenders (other than any such payment made pursuant to Section 2.6(g)).

(c) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without setoff or counterclaim and shall be made prior to 12:00 Noon, New York City time, on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. All payments received by the Administrative Agent after 12:00 Noon, New York City time, may be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. The Administrative Agent shall distribute such payments to each relevant Lender promptly upon receipt in like funds as received, net of any amounts owing by such Lender pursuant to Section 9.7. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(d) Unless the Administrative Agent shall have been notified in writing by any Lender prior to a borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender is making such amount available to the Administrative Agent, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender shall pay to the Administrative Agent, on demand, such amount with interest thereon, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, for the period until such Lender makes such amount immediately available to the Administrative Agent. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this paragraph shall be conclusive in the absence of manifest error. If such Lender's share of such borrowing is not made available to the Administrative Agent by such Lender within three Business Days after such Borrowing Date, the Administrative Agent shall also be entitled to recover such amount with interest thereon at the rate per annum applicable to ABR Loans, on demand, from the Borrower.

(e) Unless the Administrative Agent shall have been notified in writing by the Borrower prior to the date of any payment due to be made by the Borrower hereunder that the Borrower will not make such payment to the Administrative Agent, the Administrative Agent may assume that the

Borrower is making such payment, and the Administrative Agent may, but shall not be required to, in reliance upon such assumption, make available to the Lenders their respective pro rata shares of a corresponding amount. If such payment is not made to the Administrative Agent by the Borrower within three Business Days after such due date, the Administrative Agent shall be entitled to recover, on demand, from each Lender to which any amount which was made available pursuant to the preceding sentence, such amount with interest thereon at the rate per annum equal to the daily average Federal Funds Effective Rate. Nothing herein shall be deemed to limit the rights of the Administrative Agent or any Lender against the Borrower.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.12(d), 2.12(e), ~~3.4(a)~~ or 9.7, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent, to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid, and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

2.13 Requirements of Law. (a) If any Change in Law, the adoption of or any change in any Requirement of Law or in the interpretation or application thereof or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject any Lender to any Tax of any kind whatsoever with respect to this Agreement, or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Non-Excluded Taxes covered by Section 2.14 and the imposition of, or any change in the rate of, any Excluded Taxes imposed on or payable by such Lender);

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, loans or other extensions of credit by, or any other acquisition of funds by, any office of such Lender that is not otherwise included in the determination of the Eurodollar Rate; or

(iii) shall impose on such Lender any other condition (excluding Taxes);

and the result of any of the foregoing is to increase the cost to such Lender, by an amount that such Lender deems to be material, of making, converting into, continuing or maintaining Eurodollar Loans, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, the Borrower shall promptly pay such Lender, upon its demand, any additional amounts necessary to compensate such Lender for such increased cost or reduced amount receivable. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(b) If any Lender shall have determined that any Change in Law, the adoption of or any change in any Requirement of Law regarding capital adequacy or in the interpretation or application thereof or compliance by such Lender or any corporation controlling such Lender with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on such Lender's or such corporation's capital as a consequence of its obligations hereunder to a level below that

which such Lender or such corporation could have achieved but for such adoption, change or compliance (taking into consideration such Lender's or such corporation's policies with respect to capital adequacy) by an amount deemed by such Lender to be material, then from time to time, after submission by such Lender to the Borrower (with a copy to the Administrative Agent) of a written request therefor, the Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such corporation for such reduction.

(c) A certificate as to any additional amounts payable pursuant to this Section submitted by any Lender to the Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. Notwithstanding anything to the contrary in this Section, the Borrower shall not be required to compensate a Lender pursuant to this Section for any amounts incurred more than nine months prior to the date that such Lender notifies the Borrower of such Lender's intention to claim compensation therefor; provided that, if the circumstances giving rise to such claim have a retroactive effect, then such nine-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower pursuant to this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.14 Taxes. (a) Except as required by applicable law, all payments made by or on behalf of any Loan Party under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes. If any applicable law (as determined by the applicable withholding agent in its good faith discretion) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. If such Tax is a Non-Excluded Tax, then the sum payable by the applicable Loan Party shall be increased to the extent necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.14) the amounts received with respect to such payment equal the sum which would have been received as if such withholding or deduction had not been made.

(b) In addition, the Loan Parties shall pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, any Other Taxes.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by a Loan Party, as promptly as possible thereafter such Loan Party shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof. The Loan Parties shall jointly and severally indemnify the Administrative Agent and the Lenders for the full amount of Non-Excluded Taxes and Other Taxes (including Non-Excluded Taxes and Other Taxes imposed on amounts payable under this Section 2.14) and any incremental Taxes, interest or penalties paid or that may become payable by the Administrative Agent or any Lender or required to be withheld or deducted from a payment to the Administrative Agent or any Lender, along with any reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Administrative Agent or any Lender (with a copy to the Administrative Agent), shall be conclusive absent manifest error.

(d) Each Lender shall indemnify the Administrative Agent for the full amount of any Taxes (i) that are attributable to such Lender and that are payable or paid by the Administrative Agent (but only to the extent that any Loan Party has not already indemnified the Administrative Agent

for such Taxes and without limiting the obligation of the Loan Parties to do so), and (ii) attributable to such Lender's failure to comply with the provisions of Section 10.6(c) relating to the maintenance of a Participant Register, in each case together with all interest, penalties, reasonable costs and expenses arising therefrom or with respect thereto, as determined by the Administrative Agent in good faith. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) Each Lender that is a "United States person" as defined in Section 7701(a)(30) of the Code shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed copies of U.S. Internal Revenue Service ("IRS") Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal withholding Tax. Each Lender that is not a "United States person" as defined in Section 7701(a)(30) of the Code (a "Non-U.S. Lender") shall deliver to the Borrower and the Administrative Agent (i) two properly completed and duly signed copies of IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI or Form W-8IMY (together with any applicable underlying IRS forms) (in each case, or any successor form) claiming complete exemption from, or a reduced rate of, U.S. federal withholding Tax on payments under this Agreement and the other Loan Documents, (ii) in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding Tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest", a statement substantially in the form of the applicable Exhibit H to the effect that (A) the Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the 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 and two copies of the applicable IRS Form W-8 or any subsequent versions thereof or successors thereto, properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from U.S. federal withholding Tax on payments under this Agreement and the other Loan Documents, or (iii) any other form prescribed by applicable requirements of U.S. federal income Tax 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 requirements of law to permit the Borrower and the Administrative Agent to determine the withholding, deduction or information reporting required to be made. If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of foregoing sentence, "FATCA" shall include any amendments made to FATCA after the date of this Agreement. In addition, each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, deliver to the Borrower and the Administrative Agent any other form or certificate required in order that any payment made under this Agreement or any other Loan Document to the Administrative Agent or any such Lender, as the case may be, may be made free and clear of, and without deduction or withholding for or on account of, any Taxes (or to allow any such deduction or withholding to be made at a reduced rate), provided that in such Lender's sole judgment such delivery would not materially prejudice the legal or commercial position of such Lender. Any forms to be delivered under this paragraph shall be delivered by each Lender on or

before the date it becomes a party to this Agreement (or, in the case of any Participant, on or before the date such Participant purchases the related participation, to the Lender from which the related participation shall have been purchased) and from time to time thereafter upon the request of the Borrower or the Administrative Agent. In addition, each Lender shall deliver such forms promptly upon the obsolescence or invalidity of any form previously delivered by such Lender. Each Lender shall promptly notify the Borrower and the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the relevant taxing authorities for such purpose). Notwithstanding any other provision of this Section, a Lender shall not be required to deliver any form pursuant to this Section that such Lender is not legally able to deliver. Notwithstanding the foregoing, the requirements of this paragraph (e) with respect to the delivery of forms shall also apply to the Administrative Agent, and the Administrative Agent shall deliver any forms required by this paragraph (e) directly to the Borrower.

(f) For purposes of determining withholding Taxes imposed under FATCA the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) the Obligations as not qualifying as "grandfathered obligations" within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(g) If the Administrative Agent or any Lender determines, in its sole discretion in good faith, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which a Loan Party has paid additional amounts pursuant to Section 2.13 or this Section 2.14, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under Section 2.13 or this Section 2.14 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to any Loan Party or any other Person.

(h) The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.15 Indemnity. The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) default by the Borrower in making any prepayment of or conversion from Eurodollar Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement or (c) the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such indemnification may include an amount equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, converted or continued, for the period from the date of such prepayment or of such failure to borrow, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any) over (ii) the amount of interest (as reasonably determined by such

Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

2.16 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.13 or 2.14(a)with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the sole and good faith judgment of such Lender, cause such Lender and its lending office(s) to suffer no unreimbursed economic, or material legal or regulatory disadvantage, and provided, further, that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.13 or 2.14(a).

2.17 Replacement of Lenders. The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.13 or 2.14(a), (b) becomes a Defaulting Lender, or (c) does not consent to any proposed amendment, supplement, modification, consent or waiver of any provision of this Agreement or any other Loan Document that requires the consent of each of the Lenders or each of the Lenders affected thereby (so long as the consent of the Required Lenders has been obtained), with a replacement financial institution; provided that (i) such replacement does not conflict with any Requirement of Law, (ii) the replacement financial institution shall purchase, at par, all Loans and other amounts owing to such replaced Lender on or prior to the date of replacement, (iii) the Borrower shall be liable to such replaced Lender under Section 2.15 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (iv) the replacement financial institution shall be reasonably satisfactory to the Administrative Agent, (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 10.6 (provided that the Borrower shall be obligated to pay the registration and processing fee referred to therein), (vi) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.13 or 2.14(a), as the case may be, and (vii) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

2.18 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) [reserved]; and

(b) the Commitments and Loans of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.1); provided, that this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby.

In the event that the Administrative Agent and the Borrower each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then on such date such Lender shall purchase at par such of the Loans of the other Lenders as the

Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Pro Rata Share.

SECTION 3. [RESERVED]

SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans, the Loan Parties hereby jointly and severally represent and warrant to the Administrative Agent and each Lender that:

4.1 Financial Condition. (a) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the Closing Date and the related pro forma consolidated statements of income, stockholders' equity and cash flows as of and for the twelve-month period ending [September 28, 2016] (including the notes thereto) (the "Pro Forma Financial Statements"), copies of which have heretofore been furnished to each Designated Lender, have been prepared giving effect to (i) the consummation of Plan of Reorganization and the other transactions contemplated thereby (x) in the case of the balance sheet, as if such events had occurred on such date and (y) in the case of the statements of income, stockholders' equity and cash flows, as if such events had occurred at the beginning of such twelve-month period ended the Closing Date and (ii) the payment of fees and expenses in connection with the foregoing. The Pro Forma Financial Statements have been prepared based on the information available to the Borrower as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the financial position and results of operations and cash flows of the Borrower and its Subsidiaries as of such dates and for such periods, assuming that the events specified in the preceding sentence had actually occurred on such specified dates.

(b) Each of (i) the audited consolidated balance sheets of fiscal years ended July 28, 2013, August 3, 2014, and August 2, 2015, and the related consolidated statements of income and of cash flows for the fiscal years ended on such dates, reported on by and accompanied by an unqualified report from Deloitte & Touche LLP or Grant Thornton LLP, as applicable, and (ii) the unaudited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Borrower and its subsidiaries for each subsequent fiscal quarter ended at least 60 days prior to the Closing Date, present fairly in all material respects the consolidated financial condition of Holdings and its Subsidiaries as at such date, and the consolidated results of its operations and its consolidated cash flows for the respective fiscal years then ended. All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein). During the period from June 30, 2016, to and including the Closing Date there has been no Disposition by any Group Member of any material part of its business or property, except as may be contemplated in the Confirmation Order and Plan of Reorganization or as may have been implemented pursuant to an order entered by the Bankruptcy Court.

4.2 No Change. After giving effect to the Confirmation Order and the Plan of Reorganization, and since the Closing Date there has been no development or event that has had or would reasonably be expected to have a Material Adverse Effect.

4.3 Existence; Compliance with Law. After giving effect to the Confirmation Order and the Plan of Reorganization, each Group Member (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other

organization and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification and (d) is in compliance with all Requirements of Law except to the extent that the failure to comply therewith would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

4.4 Power; Authorization; Enforceable Obligations. After giving effect to the Confirmation Order and the Plan of Reorganization, each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. After giving effect to the Confirmation Order and the Plan of Reorganization, no consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except (i) consents, authorizations, filings and notices described in Schedule 4.4, which consents, authorizations, filings and notices have been obtained or made and are in full force and effect, (ii) the filings referred to in Section 4.20 and (iii) others which the failure to obtain, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. After giving effect to the Confirmation Order and the Plan of Reorganization, the execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof (a) will not violate any Requirement of Law or any Contractual Obligation of any Group Member, except for any such violation that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect and (b) will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents). No Requirement of Law or Contractual Obligation applicable to the Borrower or any of its Subsidiaries could reasonably be expected to have a Material Adverse Effect.

4.6 Litigation. After giving effect to the Confirmation Order and the Plan of Reorganization, other than the Excluded Litigation, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of any Loan Party, threatened by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, or (b) that would reasonably be expected to have a Material Adverse Effect.

4.7 No Default. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect that would reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

4.8 Ownership of Property; Liens; Possession Under Leases; Insurance. After giving effect to the Confirmation Order and the Plan of Reorganization:

(a) Each Group Member has title in fee simple to, or a valid leasehold interest in, all its real property, and good title to, or a valid leasehold interest in, all its other property, and none of such property is subject to any Lien except as permitted by Section 7.1, except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or purported to be conducted.

(b) None of the Borrower or the Subsidiaries are in default under any leases to which it is a party, except for such defaults as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All of the Borrower's or Subsidiaries' leases are in full force and effect, except leases in respect of which the failure to be in full force and effect would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Borrower and each of the Subsidiaries enjoy peaceful and undisturbed possession under any such leases, other than leases in respect of which the failure to enjoy peaceful and undisturbed possession would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) The properties of each Loan Party and its Subsidiaries are insured with reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles (and such insurance retentions) and covering such risks in all material respects as are customarily carried by companies engaged in similar business and owning similar properties in localities where such Loan Party or the applicable Subsidiary operates.

4.9 Location of Real Property and Leased Premises.

(a) Schedule 4.9(a) sets forth a complete and accurate list as of the Closing Date, of all fee owned real property of any Loan Party or any of its Subsidiaries ("Owned Real Property"), showing as of the date hereof the street address, county, or other relevant jurisdiction, state and record owner.

(b) Schedule 4.9(b) sets forth a complete and accurate list as of the Closing Date, of all Real Property Leases under which any Loan Party or any of its Subsidiaries is the lessee, showing as of the date hereof the street address, county or other relevant jurisdiction, state, names of the lessor and lessee, annual rental cost and approximate expiration date thereof.

(c) Schedule 4.9(c) sets forth a complete and accurate list as of the Closing Date, of all Real Property Leases under which any Loan Party or any of its Subsidiaries is the lessor, showing as of the date hereof the street address, county or other relevant jurisdiction, state, names of the lessor and lessee, annual rental cost and approximate expiration date thereof.

Concurrently with the delivery of the financial statements referred to in Section 6.1(a), on an annual basis, the Borrower shall provide the Administrative Agent with updated Schedules 4.9(a), 4.9(b) and 4.9(c).

4.10 Intellectual Property. Except as would not reasonably be expected to have a Material Adverse Effect, each Group Member owns, or is licensed to use, all Intellectual Property used in the conduct of its business as currently conducted. Schedule 4.10 sets forth all of the applications for registration and registered Intellectual Property owned by each Group Member on the Closing Date. Except as would not reasonably be expected to have a Material Adverse Effect, no claim has been asserted and is pending by any Person challenging or questioning the use of any owned Intellectual Property or the validity or effectiveness of any owned Intellectual Property, nor does any Loan Party know of any valid basis for any such claim. Except as would not reasonably be expected to have a

Material Adverse Effect, the use of Intellectual Property by each Group Member and the conduct of each of their businesses does not infringe on the rights of any Person.

4.11 Taxes. Except as would not reasonably be expected to have a Material Adverse Effect, each Group Member has filed or caused to be filed all Federal, state and other material Tax returns that are required to be filed and has paid all Taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other Taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member); no Tax Lien has been filed, and, to the knowledge of the Loan Parties, no claim is being asserted, with respect to any such Tax, fee or other charge.

4.12 Federal Regulations. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used (a) for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect for any purpose that violates the provisions of the Regulations of the Board or (b) for any purpose that violates the provisions of the Regulations of the Board. No more than 25% of the assets of the Group Members consist of "margin stock" as so defined.

4.13 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of the Loan Parties, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Group Member.

4.14 ERISA. (a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) each Plan, and Group Member and each of their respective ERISA Affiliates, is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Plans and the regulations and published interpretations thereunder; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) all amounts required by applicable law with respect to, or by the terms of, any retiree welfare benefit arrangement maintained by any Group Member or any ERISA Affiliate or to which any Group Member or any ERISA Affiliate has an obligation to contribute have been accrued in accordance with ASC Topic 715-60. The present value of all accumulated benefit obligations under each Pension Plan maintained by a Group Member (based on the assumptions used for purposes of ASC Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Pension Plan allocable to such accrued benefits, and the present value of all accumulated benefit obligations of all underfunded Pension Plans (based on the assumptions used for purposes of ASC Topic 715-30) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such underfunded Pension Plans.

4.15 Investment Company Act; Other Regulations. No Loan Party is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

4.16 Subsidiaries; Equity Interests. Except as disclosed to the Administrative Agent by the Borrower in writing from time to time after the Closing Date, (a) Schedule 4.16 sets forth the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage

of each class of Capital Stock owned by any Loan Party and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Capital Stock of the Borrower or any Subsidiary, except as created by the Loan Documents and in connection with the Exit First Lien Facility ~~and Exit Third Lien Notes~~. All issued and outstanding Capital Stock of each of the Loan Parties and each of their respective Subsidiaries are duly authorized, validly issued, fully paid and non-assessable.

4.17 Use of Proceeds. The proceeds of the (a) Rollover Term Loans shall be used to repay (or be deemed to repay) the Existing Obligations as contemplated by the Confirmation Order and Plan of Reorganization and (b) Additional Term Loans shall be used for general corporate purposes, including to finance the working capital needs of the Borrower and its Subsidiaries.

4.18 Environmental Matters. Except as, in the aggregate, would not reasonably be expected to have a Material Adverse Effect:

(a) the facilities and properties owned, leased or operated by any Group Member (the "Properties") do not contain, and have not previously contained, any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or constituted a violation of, or would reasonably be expected to give rise to liability under, any Environmental Law;

(b) no Group Member has received or is aware of any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Properties or the business operated by any Group Member (the "Business"), nor, to the knowledge of Holdings or the Borrower, has any event occurred or does any condition exist that would reasonably be expected to result in any such notice;

(c) Materials of Environmental Concern have not been transported or disposed of from the Properties or in connection with the Business in violation of, or in a manner or to a location that would reasonably be expected to give rise to liability under, any Environmental Law, nor have any Materials of Environmental Concern been generated, treated, stored or disposed of at, on or under any of the Properties in violation of, or in a manner that would reasonably be expected to give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of the Loan Parties, threatened, under any Environmental Law to which any Group Member is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or in connection with the Business;

(e) there has been no Release or threat of Release of Materials of Environmental Concern at or from the Properties, or arising from or related to the operations of any Group Member in connection with the Properties or otherwise in connection with the Business, in violation of or in amounts or in a manner that would reasonably be expected to give rise to liability under Environmental Laws, or interfere with continued operation at, or impair the fair salable value of the Properties;

(f) the Properties and all Group Member operations at the Properties or in connection with the Business are in compliance with all, and have not violated any applicable Environmental Laws, and there is no contamination at, under or migrating from the Properties or violation of any Environmental Law with respect to the Properties or the Business; and

(g) no Group Member has assumed any liability of any other Person under Environmental Laws.

4.19 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document or any other document, certificate or statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or, when taken as a whole with other information so furnished, omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The financial projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, and no assurance can be given that any particular Projections will be realized and that actual results may differ and such differences may be material. There is no fact known to any Loan Party that would reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

4.20 Security Documents. The Guarantee and Collateral Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock and Pledged Notes (if any) (each as described and defined in the Guarantee and Collateral Agreement), when stock certificates representing such Pledged Stock and promissory notes representing such Pledged Notes are delivered to the Administrative Agent (or to the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) (together with a properly completed and signed stock power, note power or endorsement, as applicable), and in the case of the other Collateral (other than Specified Collateral) described in the Guarantee and Collateral Agreement, when financing statements and other filings specified on Schedule 4.20~~(a)~~ in appropriate form are filed in the offices specified on Schedule 4.20~~(a)~~, the Administrative Agent (on behalf of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations (as defined in the Guarantee and Collateral Agreement), in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Liens permitted by Section 7.1 and in the case of Pledged Stock, Liens in favor of the Exit First Lien Agent securing the Exit First Lien Facility).

4.21 Solvency. As of the date of the initial borrowing under this Agreement and after giving effect to the Confirmation Order and the Plan of Reorganization, Holdings, the Borrower, and its Subsidiaries, taken as a whole, are Solvent.

4.22 EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

4.23 Insurance. The properties of the Loan Parties and their respective Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Person operates. Schedule 4.23 sets forth a description in reasonable detail of all insurance maintained by any Loan Party as of the Closing Date.

4.24 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices; Anti-Terrorism Laws.

(a) Each Loan Party and each Subsidiary of each Loan Party is in compliance in all material respects with all Sanctions. No Loan Party and no Subsidiary of a Loan Party (i) is a Person on the list of the Specially Designated Nationals and Blocked Persons (the "SDN List"), (ii) is a Person who is otherwise the target of U.S. economic sanctions laws such that a U.S. Person cannot deal or otherwise engage in business transactions with such person, (iii) is a Person organized or resident in a Sanctioned Country or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited by U.S. law.

(b) Each Loan Party and each Subsidiary of each Loan Party is in compliance with all laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such anti-money laundering laws is pending or threatened to the knowledge of each Loan Party and each Subsidiary of each Loan Party.

(c) Each Loan Party and each Subsidiary of each Loan Party is in compliance in all material respects with Anti-Corruption Laws, including the U.S. Foreign Corrupt Practices Act of 1977 ("FCPA") and the U.K. Bribery Act 2010. None of the Loan Parties or any Subsidiary thereof, nor to the knowledge of the Loan Parties, any director, officer, agent, employee, or other person acting on behalf of such Loan Party or any Subsidiary thereof, has taken any action, directly or indirectly, that would result in a violation of applicable Anti-Corruption Laws. Each Loan Party and each Subsidiary has instituted and will continue to maintain policies and procedures designed to promote compliance with applicable Anti-Corruption Laws. No Borrowing, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions

SECTION 5. CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The agreement of each Lender to make the initial extension of credit requested to be made by it is subject to the satisfaction, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Credit Agreement; Guarantee and Collateral Agreement. The Administrative Agent shall have received:

(i) this Agreement, executed and delivered by the Administrative Agent, Holdings, the Borrower, each other Loan Party and each Person listed on Schedule ~~1.1A~~2.1;

(ii) the Guarantee and Collateral Agreement, executed and delivered by each Loan Party and the Administrative Agent;

(iii) the Intercreditor Agreement, executed and delivered by each party thereto;

(iv) ~~[~~the Agent Fee Letter, executed and delivered by each party thereto;~~]~~

(v) the Trademark Security Agreement, executed and delivered by each party thereto; and

(vi) the Notes, executed and delivered by the Borrower, to the extent required under this Agreement.

(b) Bankruptcy Court Documentation. The Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall have become a final order and shall not have been stayed, reversed, vacated, amended, supplemented or otherwise modified in any manner that would reasonably be expected to adversely affect the interests of the Administrative Agent or the Designated Lenders and the Confirmation Order shall have *inter alia* authorized and approved the Loan Parties to execute, deliver and perform under the Loan Documents. The Plan of Reorganization and all transactions contemplated therein or in the Confirmation Order to occur on the effective date of the Plan of Reorganization shall have been (or concurrently with the occurrence of the Closing Date, shall be) substantially consummated in accordance with the terms thereof and in compliance with applicable law and the Bankruptcy Court and regulatory approvals.

(c) Debtor-In Possession Financing. The Borrower shall have received debtor-in-possession financing under the DIP Facility, the proceeds of the New Money Facility shall have been contributed to the Borrower following the approval of the Bankruptcy Court of the DIP Facility in an amount not less than $25,000,000, and prior to the effectiveness of this Agreement, the Borrower shall have requested all of the proceeds from the Loans (as defined in the DIP Credit Agreement) on deposit in the Segregated Pre-Funding Account (as defined in the DIP Credit Agreement) be disbursed from such account to the Borrower in accordance with the terms of the DIP Credit Agreement. In addition, claims under the Existing Facility (as defined in the Exit First Lien Agreement) shall have been (or concurrently with the Closing Date, shall be) converted to claims under the Exit First Lien Facility, as set forth in the Confirmation Order and Plan of Reorganization.

(d) Exit First Lien Facility. The conditions to the effectiveness of the Exit First Lien Agreement and the Exit First Lien Loan Documents shall have been, or shall substantially concurrently with the occurrence of the Closing Date be, satisfied or waived.

(e) Liquidity; No Other Indebtedness; Lien Release. As of the Closing Date (i) the Loan Parties shall have aggregate Liquidity of not less than $5,000,000 and (ii) neither the Loan Parties nor any of their respective Subsidiaries shall have any Indebtedness outstanding other than Indebtedness outstanding under this Agreement, the Exit First Lien Facility, ~~the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~ and as otherwise contemplated by the Confirmation Order and Plan of Reorganization and Indebtedness permitted pursuant to Section 7.2, and the Administrative Agent shall have received evidence of the foregoing clauses (i) and (ii) reasonably satisfactory to it, including but not limited to a written certification from a Responsible Officer of each applicable Loan Party and if necessary, executed payoff letters or termination or release documents. ~~The~~All Liens (other than Liens permitted pursuant to Section 7.1) securing payment of any such Indebtedness not permitted to be outstanding pursuant to the immediately preceding sentence shall have been released or will be released contemporaneously with the funding the Loans hereunder, and the Administrative Agent shall ~~also~~ have received duly executed (if applicable) UCC-3 termination statements and other termination or release documents evidencing the termination of all ~~Liens securing Indebtedness not permitted to be outstanding pursuant to the immediately preceding sentence~~such Liens, in each case, in proper form for filing if applicable.

(f) Restructuring Support Agreement. The Restructuring Support Agreement shall be in full force and effect and no Termination Event (as defined therein) shall have occurred thereunder, except as may occur as a result of the occurrence of the Effective Date (as defined in the Plan of Reorganization) of the Plan of Reorganization.

(g) Holdings Financial Statements. The Designated Lenders shall have received the financial statements described in Section 4.1(b).

(h) Loan Party Financial Statements. The Designated Lenders shall have received the Pro Forma Financial Statements.

(i) Lien Searches. The Administrative Agent shall have received the results of a recent Lien search with respect to each Loan Party, and such search shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 7.1 or Liens to be discharged on or prior to the Closing Date pursuant to documentation satisfactory to the Administrative Agent.

(j) Fees. (i) The Lenders and the Administrative Agent shall have received all fees required to be paid, including any fees payable pursuant to the Agent Fee Letter, and all expenses for which invoices have been presented (including the reasonable fees and expenses of counsels and advisors to the Designated Lenders and the Administrative Agent (including Dechert LLP, Debevoise & Plimpton LLP, King & Spalding LLP, and Morris, Nichols, Arsht & Tunnell LLP)), on or before the Closing Date and (ii) the Borrower shall have paid to the Administrative Agent for the account of each Lender the Upfront Commitment Fee, which shall be deemed to be paid in accordance with Section 2.3.

(k) Closing Certificate; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a closing certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit C and (ii) a secretary's certificate of each Loan Party, dated the Closing Date, substantially in the form of Exhibit D, with appropriate insertions and attachments, including the certificate of incorporation of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party, and the bylaws or other comparable governing documents of such Loan Party and (iii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(l) Solvency Certificate. The Administrative Agent shall have received a certificate dated the Closing Date and signed by the Chief Financial Officer (or Vice President of Finance if the Chief Financial Officer position is vacant) of Holdings certifying that Holdings and its Subsidiaries are Solvent on a consolidated basis after giving effect to the Confirmation Order and the Plan of Reorganization and the transactions contemplated hereby and thereby;.

(m) Insurance. The Administrative Agent shall have received a certificate of insurance coverage of the Loan Parties evidencing that the Loan Parties are carrying insurance satisfying the requirements of Section [__] of the Guarantee and Collateral Agreement, together with endorsements naming the Administrative Agent, on behalf of the Secured Parties, as additional insured or lender's loss payee, as the case may be, under all such insurance policies;.

(n) Legal Opinions. The Administrative Agent shall have received executed legal opinions from Delaware, Kansas, New York, Tennessee, and Texas counsel to the Loan Parties and their respective Subsidiaries. Each such legal opinion shall cover such other matters incident to the transactions contemplated by this Agreement as are customary for similar financings.

(o) Pledged Stock; Stock Powers; Pledged Notes. The Administrative Agent (or the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) shall have received (i) the certificates representing the shares of Capital Stock pledged pursuant to the Guarantee and Collateral Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Administrative Agent pursuant to the Guarantee and Collateral Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(p) Filings, Registrations and Recordings. Other than the Mortgages, each document (including any Uniform Commercial Code financing statement) required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral (other than Specified Collateral) described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 7.1), shall be in proper form for filing, registration or recordation; provided, that, to the extent any security interest in any Collateral is not or cannot be provided or perfected on the Closing Date (other than the grant and perfection of security interests (i) in assets located in any state of the United States or the District of Columbia with respect to which a Lien may be perfected solely by the filing of a financing statement under the Uniform Commercial Code or (ii) in Capital Stock with respect to which a lien may be perfected by the delivery of a stock certificate) after the Loan Parties' use of commercially reasonable efforts to do so or without undue burden or expense, then the provision and or perfection of a security interest in any such Collateral shall not constitute a condition precedent to the availability of the Closing Date Term Loans on the Closing Date so long as the applicable Loan Party delivers or causes to be delivered such documents and instruments.

(q) Chief Restructuring Officer. A chief restructuring officer (or officers) acceptable to the Lenders, and with powers and responsibilities previously disclosed to the Lenders, shall have been appointed by Holdings. The Lenders hereby acknowledge that the appointment of Mackinac Partners, LLC's Keith Maib as chief restructuring officer of finance and Mackinac Partners, LLC's Nishant Machado as chief restructuring officer of operations is acceptable to the Lenders.

(r) Approvals; No Conflicts. All governmental and third party approvals (including by landlords', shareholders and any other consents) necessary in connection with the transactions contemplated by the Confirmation Order and Plan of Reorganization, the continuing operations of the Group Members and the transactions contemplated hereby shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on such transactions or the financing contemplated hereby.

(s) Litigation. There are no actions, suits, investigations or proceedings by or before any arbitrator or Governmental Authority pending or threatened against any Group Member that purports to materially and adversely affect the consummation of the Plan of Reorganization, or that could have a Material Adverse Effect on the Loan Parties, taken as a whole, the consummation of the Plan of Reorganization or any other transaction contemplated hereby, or on the ability of any Loan Party to perform its obligations under the Loan Documents.

(t) USA PATRIOT Act. The Administrative Agent shall have received, at least five day prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the ~~PATRIOT ACT~~Patriot Act.

(u) Closing Date. The Closing Date shall have occurred on or prior to November [16], 2016.

(v) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects (and in all respects if such representation and warranty is qualified by materiality) on and as of such date as if made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct as of such earlier date).

(w) No Default. No Default or Event of Default (including, without limitation, under Section 7.17) shall have occurred and be continuing on the date hereof or after giving effect to the extensions of credit requested to be made on the date hereof.

For the purpose of determining compliance with the conditions specified in this Section 5.1, each Lender that has signed this Agreement shall be deemed to have accepted, and to be satisfied with, each document or other matter required under this Section 5.1 unless the Administrative Agent shall have received written notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 6. AFFIRMATIVE COVENANTS

Each Loan Party hereby jointly and severally agrees that, so long as any Loan or other amount is owing to any Lender or the Administrative Agent hereunder, each Loan Party shall and shall cause each of its Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent and each ~~Lender~~Designated Lender or the Administrative Agent for distribution to the Lenders:

(a) as soon as available, but in any event not later than 90 days after the end of each fiscal year of the Borrower (or, in the case of the fiscal year of the Borrower ending December 28, 2016, ~~120~~150 days), a copy of the audited consolidated balance sheet of the ~~[~~Borrower~~]~~ and its consolidated Subsidiaries as at the end of such year and the related audited consolidated statements of income and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on without a qualification arising out of the scope of the audit, by Grant Thornton LLP or other independent certified public accountants of nationally recognized standing; and

(b) as soon as available, but in any event not later than 45 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower (or, in the case of the first quarterly period of the fiscal year of the Borrower ending January 3, 2018, 60 days) the unaudited consolidated balance sheet of the ~~[~~Borrower~~]~~ and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer as fairly stating in all material respects the consolidated financial position, results of operations and cash flow of ~~[Holdings]~~the Borrower and its Subsidiaries as at the dates indicated and for the periods indicated in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (subject to normal year-end audit adjustments and the absence of footnote disclosure).

All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods

reflected therein and with prior periods. The Loan Parties will be deemed to have satisfied the requirements of this Section and of Sections 6.2(d) and (e) if either the Borrower or Holdings files with, or provides to, the SEC such financial statements, reports, documents and information of the types so required, in each case within the applicable time periods.

6.2 Certificates; Other Information. Furnish to the Administrative Agent and each ~~Lender~~Designated Lender or the Administrative Agent for distribution to the Lenders (or, in the case of clause (g), to the relevant Lender):

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of the independent certified public accountants reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate;

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1 or (solely with respect to clause (i) and (ii)(x) below) Section 6.2(h), (i) a certificate of a Responsible Officer stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) in the case of quarterly or annual financial statements (and, in the case of clause (x), monthly financial statements), (x) a Compliance Certificate containing all information and calculations necessary for determining compliance by the Loan Parties with Section 7.17 as of the last day of the fiscal month, fiscal quarter or fiscal year of the Borrower, as the case may be, and (y) to the extent not previously disclosed in writing to the Administrative Agent, (1) a description of any change in the jurisdiction of organization of any Loan Party, (2) a list of any Intellectual Property issued, registered or for which an application is pending which is acquired, by any Loan Party and (3) a description of any Person that has become a Group Member, in each case since the date of the most recent report delivered pursuant to this clause (y) (or, in the case of the first such report so delivered, since the Closing Date);

(c) as soon as available, and in any event no later than 90 days after the end of each fiscal year of the Borrower, a detailed quarterly consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the ~~[~~Borrower~~]~~ and its Subsidiaries as of the end of each fiscal quarter of the following fiscal year, the related consolidated statements of projected cash flow and projected income and a description of the underlying assumptions applicable thereto), and, as soon as available, significant revisions, if any, of such budget and projections with respect to such fiscal year (collectively, the "Projections"), which Projections shall in each case be accompanied by a certificate of a Responsible Officer stating that such Projections have been prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and that actual results during the period or periods covered by such Projected may differ from the projected results, and such differences may be material);

(d) within 45 days after the end of each fiscal quarter of the Borrower and 90 days after the end of each fiscal year of the Borrower (or such extended periods as set forth in Sections 6.1(a) or (b), as applicable), a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, as compared to the portion of the Projections covering such periods and to the comparable periods of the previous year;

(e) within 10 days after the same are sent, copies of all financial statements and reports that Holdings or the Borrower provides to the holders of any class of its debt securities or public equity securities and, within five days after the same are filed, copies of all financial statements and reports that Holdings or the Borrower may make to, or file with, the SEC;

(f) promptly following receipt by a Responsible Officer thereof, copies of (i) any documents described in Section 101(k) of ERISA that any Group Member or any ERISA Affiliate may request with respect to any Multiemployer Plan, (ii) any notices described in Section 101(l) of ERISA that any Group Member or any ERISA Affiliate may request with respect to any Multiemployer Plan or (iii) any plan funding notices described in Section 101(f) of ERISA with respect to any Pension Plan or any Multiemployer Plan provided to or received by any Group Member or ERISA Affiliate; provided, that if the relevant Group Member or ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent or the Designated Lenders, such Group Member or the ERISA Affiliate shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrower shall provide copies of such documents and notices to the Administrative Agent promptly after receipt thereof;

(g) promptly, such additional financial and other information (i) as any Lender may from time to time reasonably request or (ii) that is provided to the lenders under the Exit First Lien Agreement;

(h) as soon as available, but in any event not later than 30 days after the end of each fiscal month of the ~~[~~Borrower~~]~~ (or, in the case of each fiscal month that ends prior to or on June 28, 2017, 45 days), the balance sheet of the ~~[~~Borrower~~]~~ and its consolidated Subsidiaries as of the end of such month, the unaudited preliminary consolidated statement of cash flows of the ~~[~~Borrower~~]~~ and its consolidated Subsidiaries as at the end of such month, the related unaudited preliminary consolidated statements of income for such month, the Borrower's key performance indicators of the Borrower and its consolidated Subsidiaries for such month and the addbacks and deductions to EBITDA for such month (which information shall be presented in a form consistent with the information delivered to the ~~Administrative Agent~~administrative agent under the Existing Facility (as defined in the Exit First Lien Agreement) (or such other form acceptable to the ~~Administrative Agent~~Required Lenders)), in each case, as customarily prepared by the Borrower for its internal use;

(i) as soon as available, but in any event not later than three Business Days after the end of every fourth fiscal week of the Borrower, the Borrower's 26-week liquidity forecast, as customarily prepared by the Borrower for its internal use; provided that, as soon as available, but in any event not later than November 16, 2016, the Borrower shall deliver its 26-week liquidity forecast for the fiscal week ended May 17, 2017; and

(j) as soon as available, but in any event not later than three Business Days after the end of each fiscal week of the Borrower, beginning with the week ended [November 16], 2016, a cash flow variance report including a variance report of the cash flow forecast compared to actual results (i) of the applicable week (which is based on information through the immediately preceding week) and (ii) on a cumulative basis (for the then cumulative period); provided that the Borrower's obligation to provide reporting pursuant to this subsection (j) shall be suspended for any week for which the most recently reported Consolidated EBITDA exceeds $25,000,000 as measured on a trailing twelve months' basis.

6.3 Payment of Obligations. Pay and discharge before the same shall become delinquent, (i) all federal, state income and franchise and other material Taxes, assessments and governmental charges or levies imposed upon it or upon its property and (ii) all lawful claims that, if unpaid, might by law become a Lien upon its property; provided, however, that the Borrower or its Subsidiaries shall not be required to pay or discharge any such Tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves in accordance with GAAP are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable.

6.4 Maintenance of Existence; Compliance. (a)(i) Preserve, renew and keep in full force and effect the organizational existence of such Loan Party and (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.4 and except, in each case of clause (ii) above, to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; and (b) comply with all Contractual Obligations and Requirements of Law except to the extent that failure to comply therewith would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Property; Insurance. (a) Maintain and preserve in all material respects, all property used or useful and necessary in its business in good working order and condition, ordinary wear and tear and damage by casualty and condemnation excepted and except for such failure to so maintain which would not reasonably be expected to have a Material Adverse Effect, (b) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts (with such deductibles and self-insured retentions) and against at least such risks (but including in any event public liability, product liability, business interruption and hazards) as are usually insured against in the same general area by companies engaged in the same or a similar business, and (c) all losses shall be adjusted by the Borrower with the insurance companies. So long as no Event of Default has occurred and is continuing, all insurance proceeds and all awards and proceeds of any condemnation or other proceedings with respect to any property of the Loan Parties shall be collected by or on behalf of the applicable Loan Party, and applied by the applicable Loan Party to restore or replace the related property within (x) one hundred eighty (180) days following the receipt of such proceeds or awards or (y) two hundred seventy (270) days following the receipt of such proceeds or awards to the extent such Loan Party enters into a definitive contract, commitment or other agreement providing for the restoration or replacement of such related property within one hundred eighty (180) days following the receipt of such proceeds or awards; provided, that such Loan Party shall give written notice to the Administrative Agent (for distribution to the Designated Lenders) within [~~—~~five (5) Business Days] following the occurrence of such event giving rise to such proceeds and award. If an Event of Default has occurred and is continuing, any such proceeds and awards with respect to any Collateral or property subject to a Mortgage shall be applied in accordance with the Guarantee and Collateral Agreement. If any portion of any property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the Flood Insurance Laws, then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws, (ii) cooperate with the Administrative Agent and the Designated Lenders and provide ~~in formation~~information reasonably required by the Administrative Agent or the Designated Lenders to comply with the Flood Insurance Laws and (iii) deliver to the Administrative Agent (for distribution to the Designated Lenders) evidence of such compliance in form and ~~sub stance~~substance reasonably acceptable to the ~~Administrative Agent~~Required Lenders, including, without limitation, evidence of annual renewals of such insurance.

6.6 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct entries in all material respects in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities, (b) permit representatives of the Administrative Agent or any Designated Lender to visit and inspect any of its properties and examine and make abstracts from any of its books and records upon reasonable prior notice at any reasonable time during normal business hours without interrupting business operations and as often as may reasonably be desired and to discuss the business, operations, properties and financial and other condition of the Group Members with officers and

employees of the Group Members and with their independent certified public accountants and (c) upon request of the Administrative Agent or the Required Lenders, upon reasonable prior notice at any reasonable time during normal business hours, participate in telephonic conferences with the Lenders to discuss the business, operations, properties and financial and other condition of the Loan Parties; provided that (i) to the extent that the Consolidated EBITDA of the Borrower as measured on a trailing 12 months' basis is less than $25,000,000, the number of such telephonic conferences shall be limited to one per month and (ii) to the extent that the Consolidated EBITDA of the Borrower as measured on a trailing 12 months' basis is greater than $25,000,000, the number of such telephonic conferences shall be limited to one per quarter.

6.7 Notices. Promptly after a Responsible Officer obtains knowledge thereof, give notice to the Administrative Agent and ~~each Lender~~the Designated Lenders (or the Administrative Agent for distribution to the Lenders) of:

(a) the occurrence of any Default or Event of Default;

(b) any litigation or proceeding affecting any Group Member (including in respect of any non-compliance with Environmental Laws) (i) in which the amount involved is $1,000,000 or more and not covered by insurance, (ii) in which injunctive or similar relief is sought or (iii) which relates to any Loan Document;

(c) the occurrence of any ERISA Event that, alone or together with any ERISA Events that have occurred, would reasonably be expected to result in material liability of any Group Member or any of its ERISA Affiliates, either individually or in the aggregate, as soon as possible and in any event within 10 days after the Borrower knows or has reason to know thereof;

(d) any Release of Materials of Environmental Concern at any Property that would reasonably be expected to result in any loss or liability of $[1,000,000] or more; and

(e) any development or event that has had or would reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.7 shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

6.8 Environmental Laws. (a) Comply in all material respects with, and use reasonable best efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply in all material respects with and maintain, and use reasonable best efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws.

(b) Conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws; provided, however, that neither Holdings nor Borrower shall be required to undertake any investigations, studies, sampling, testing or remedial, removal or other actions to the extent such actions are being contested in good faith pursuant to proper proceedings, appropriate reserves are being maintained with respect to such circumstances, and the outcome of such contest would not reasonably be expected to result in a Material Adverse Effect.

(c) Promptly provide the ~~Lenders~~Designated Lenders (or the Administrative Agent for distribution to the Lenders) with a Phase I Environmental Site Assessment report reasonably acceptable to the ~~Administrative Agent~~Required Lenders for (i) any Owned Real Property, and (ii) any real property (whether owned or leased by any Group Member) where the ~~Administrative Agent~~Required Lenders reasonably ~~believes~~believe that a Release of Materials of Environmental Concern has occurred that would reasonably be expected to result in a loss or liability of $1,000,000 or more, in each case to the extent that the Loan Parties or their Subsidiaries conduct or cause to be conducted such Phase I Environmental Site Assessment.

6.9 Additional Collateral, etc. (a) With respect to any property acquired after the Closing Date by any Group Member (other than (w) Excluded Property (as defined in the Guarantee and Collateral Agreement), (x) any property described in paragraph (b), (c) or (d) below, (y) any property subject to a Lien expressly permitted by Section 7.1(~~d~~c) and (z) property acquired by any Foreign Subsidiary or Foreign Subsidiary Holding Company) as to which the Administrative Agent, for the benefit of the Lenders, does not have a perfected Lien, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement or such other documents as the Administrative Agent ~~deems~~or the Required Lenders deem necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a security interest in such property and (ii) take all actions necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority (subject in the case of priority to Liens permitted by Section 7.1 and the Intercreditor Agreement) security interest in such property (subject to limitations on perfection of Specified Collateral as set forth in the Guarantee and Collateral Agreement), including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent or the Required Lenders.

(b) With respect to (i)(A) any fee interest in any individual real property acquired after the Closing Date by any Group Member having a value (based on the purchase price plus actual improvement costs) of at least $250,000 and (B) owned by such Group Member for 12 months (individually and collectively, the "Threshold Properties") or (ii) to the extent that the aggregate value of all real property owned by any Group Member (other than any Foreign Subsidiary or Foreign Subsidiary Holding Company) exceeds $500,000 (based on the purchase price plus actual improvement costs), as soon as practicable, but in any event within 90 days from the date the interest in such real property meets the requirements of clauses (i) or (ii) above, as applicable (W) execute and deliver a first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) Mortgage, in favor of the Administrative Agent, for the benefit of the Secured Parties, covering such real property, (X) if requested by the Administrative Agent or the Required Lenders, provide the Lenders with (1) title and extended coverage insurance covering such real property in an amount at least equal to 110% of the estimated value (based on the purchase price plus actual improvement costs) of such real property as well as a current ALTA survey thereof, together with a surveyor's certificate, (2) any consents or estoppels reasonably deemed necessary or advisable by the Administrative Agent or the Required Lenders in connection with such Mortgage, and (3) to the extent available, a Phase I Environmental Site Assessment, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, (Y) if requested by the Administrative Agent or the Required Lenders, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent and the Required Lenders and (Z) (a) a "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each such property; and (b) in the event any such property is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a Special Flood Hazard Area, (x) a notice about special flood hazard area status and flood disaster assistance, duly executed by the Borrower, (y) evidence of flood

insurance with a financially sounds and reputable insurer, naming the Administrative Agent, as mortgagee, in an amount and otherwise in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, and (z) evidence of the payment of premiums in respect thereof in form and substance reasonably satisfactory to the Administrative Agent; provided, however, that this Section 6.9(b) will not apply to any real property acquired by any Foreign Subsidiary or Foreign Subsidiary Holding Company.

(c) With respect to any new Subsidiary (other than any Foreign Subsidiary or Foreign Subsidiary Holding Company) created or acquired after the Closing Date by any Group Member, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent ~~deems~~or the Required Lenders deem necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) security interest in the Capital Stock of such new Subsidiary that is owned by any Group Member, (ii) deliver to the Administrative Agent (or the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, (iii) cause such new Subsidiary (A) to become a party to this Agreement and the Guarantee and Collateral Agreement, (B) to take such actions necessary or advisable to grant to the Administrative Agent for the benefit of the Secured Parties a perfected first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) security interest in the Collateral described in the Guarantee and Collateral Agreement with respect to such new Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent or the Required Lenders and (C) to deliver to the Administrative Agent certificates of such Subsidiary, substantially in the forms of Exhibit C and Exhibit D, with appropriate insertions and attachments, and (iv) if requested by the Administrative Agent or the Required Lenders, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent.

(d) With respect to any new Foreign Subsidiary or Foreign Subsidiary Holding Company created or acquired after the Closing Date by any Group Member (other than by any Group Member that is a Foreign Subsidiary or a Foreign Subsidiary Holding Company), promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent ~~deems~~or the Required Lenders deem necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority (subject in the case of priority to Liens permitted pursuant to Section 7.1 and the Intercreditor Agreement) security interest in the Capital Stock of such new Subsidiary that is owned by any such Group Member (provided that in no event shall more than 66% of the total outstanding voting Capital Stock of any such new Subsidiary be required to be so pledged), (ii) deliver to the Administrative Agent (or the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Group Member, and take such other action as may be necessary or, in the opinion of the Administrative Agent or the Required Lenders, desirable to perfect the Administrative Agent's security interest therein, and (iii) if requested by the Administrative Agent or the Required Lenders, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent and the Required Lenders.

(e) ~~Without~~Subject to, but without limiting any provision in, the Intercreditor Agreement, if any lender with respect to any Exit First Lien Obligations or Exit First Lien Loan

Documents, receives any additional guaranty (other than a limited guaranty by any Lender, who is a holder of Capital Stock of Holdings or its direct or indirect parent, of Exit First Lien Obligations) or other form of credit support (including any additional borrower) or any additional collateral agreement executed by any Loan Party or any of its Subsidiaries in connection with, or after the date of, the incurrence thereof, without limitation of any Event of Default that may arise as a result thereof, the Loan Parties shall, concurrently therewith, cause the same to be granted to the Administrative Agent, for the benefit of the Secured Parties. If any of the Exit First Lien Obligations or Exit First Lien Loan Documents are amended, supplemented or otherwise modified to add any event of default, financial covenant, negative covenant or affirmative covenant or any event of default, financial covenant, negative covenant or affirmative covenant set forth therein is amended or otherwise modified to make such default trigger, financial covenant or other covenant more restrictive or onerous on any Loan Party or Subsidiary, at the request of the Required Lenders (or the Administrative Agent at the request of the Required Lenders), the Loan Parties shall promptly amend this Agreement and the other Loan Documents at the same time (or at such later time as may be requested by the Required Lenders (or the Administrative Agent at the request of the Required Lenders) to incorporate such changes into the Loan Documents, and with respect to any event of default, financial covenant, negative covenant or affirmative covenant, so as to maintain the same percentage difference between such event of default, financial covenant or negative covenant in the Exit First Lien Loan Documents and the Loan Documents (with any new event of default, financial covenant, negative covenant or affirmative covenant added to have the same percentage cushion between the Exit First Lien Loan Documents and the Loan Documents that exists on the Closing Date and using the same methodology of calculation).

6.10 Compliance with Laws. Comply with all Requirements of Law except to the extent that the failure to comply therewith would not, in the aggregate, reasonably be expected to result in a Material Adverse Effect. The Loan Parties will maintain in effect and enforce policies and procedures designed to ensure compliance by each Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

6.11 Chief Restructuring Officer. For so long as a chief executive officer reasonably acceptable to the Designated Lenders shall not have been appointed or otherwise retained by the Borrower, maintain a chief restructuring officer (or officers) reasonably acceptable to the Designated Lenders and with substantially the same powers and responsibilities as it or they had on the Closing Date (or such different powers and responsibilities as may be approved by the Designated Lenders). The Lenders hereby acknowledge and agree that the appointment of Mackinac Partners, LLC's Keith Maib as chief restructuring officer of finance and Mackinac Partners, LLC's Nishant Machado as chief restructuring officer of operations is reasonably acceptable to the Lenders. [1]

SECTION 7. NEGATIVE COVENANTS

Each Loan Party hereby agrees that so long as any Loan, Obligation or other amount (other than Unmatured Surviving Obligations) is owing to any Lender or the Administrative Agent hereunder, each Loan Party shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

7.1 Liens, Etc. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Lien on or with respect to, any of its properties (including, without limitation, accounts) whether now owned or hereafter acquired, or sign or file or suffer to exist, or permit any of its Subsidiaries to sign or file or suffer to exist, under the Uniform Commercial Code of any jurisdiction, a financing statement that names any Loan Party or any of its Subsidiaries as debtor, or sign or suffer to exist, or permit any of its Subsidiaries to sign or suffer to exist,

[1] NTD: Corresponding change to be made to the First Lien Credit Agreement.

any security agreement authorizing any secured party thereunder to file such financing statement, or assign, or permit any of its Subsidiaries to assign, any accounts or other right to receive income, except:

(a) Liens created under the Loan Documents;

(b) Permitted Liens;

(c) Liens existing on the date hereof and described on Schedule 7.1(c) hereto;

(d) Liens on the Collateral securing the Exit First Lien Obligations ~~and the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization), in each case,~~ to the extent the Indebtedness in respect thereto is permitted hereunder and subject to the Intercreditor Agreement;

(e) purchase money Liens upon or in assets acquired or held by the Borrower or any of its Subsidiaries to secure the purchase price of such property or equipment or to secure Indebtedness incurred solely for the purpose of financing the acquisition, construction or improvement of any such property or equipment to be subject to such Liens, or Liens existing on any such property or equipment within 180 days of acquisition, or extensions, renewals or replacements of any of the foregoing; provided, however, that no such Lien shall extend to or cover any property other than the property or equipment being acquired, constructed or improved, and no such extension, renewal or replacement shall extend to or cover any property not theretofore subject to the Lien being extended, renewed or replaced; and provided further that the aggregate principal amount of the Indebtedness secured by Liens permitted by this clause (d) shall not exceed the amount permitted under Section 7.2(d)(~~ii~~iii) at any time outstanding;

(f) Liens arising in connection with Capital Lease Obligations of the Borrower or any of its Subsidiaries permitted under Section 7.2(d); provided that no such Lien shall extend to or cover any Collateral or assets other than the assets subject to such Capital Lease Obligations;

(g) the replacement, extension or renewal of any Lien permitted by clause (c) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Indebtedness secured thereby provided that (i) such replacement, extension or renewal does not extend to any additional property other than (x) after-acquired property that is affixed or incorporated into the property covered by such Lien and (y) the proceeds thereof and (ii) if such Lien or Indebtedness being replaced, extended or renewed is subordinated in right of payment and/or in right of Lien to any of the Obligations, such replacement extension or renewal is subordinated in right of payment and or in right of Lien to at least the same extent as such Lien or Indebtedness being replaced, extended or renewed;

(h) Liens securing any of the Indebtedness described in Section 7.2(b)(ii) and Section 7.2(c) that is owed by a Subsidiary of the Borrower that is not a Subsidiary Guarantor;

(i) Liens existing on any asset of any Person at the time such Person becomes a Subsidiary or is merged or consolidated with or into a Subsidiary that (i) were not created in contemplation of or in connection with such event and (ii) do not extend to or cover any other property or assets of the Loan Parties, so long as any Indebtedness related to any such Liens ~~as~~is permitted under Section 7.2;

(j) customary rights of set off, bankers' liens, refunds or charge backs, under deposit agreements, the Uniform Commercial Code or common law, of banks or other financial

institutions where Holdings or any of its Subsidiaries maintains deposits (other than deposits intended as cash collateral) in the ordinary course of business;

(k) any interest or title of a licensor, sublicensor, lessor or sublessor with respect to any assets under any license or lease agreement entered into in the ordinary course of business; provided that the same do not interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries;

(l) licenses, sublicenses, leases or subleases with respect to any assets (including intellectual property) granted to third Persons in the ordinary course of business; provided that the same do not interfere in any material respect with the business of the Borrower or its Subsidiaries or materially detract from the value of the relevant assets of the Borrower or its Subsidiaries;

(m) Liens which arise under Article 4 of the Uniform Commercial Code in any applicable jurisdictions on items in collection and documents and proceeds related thereto;

(n) precautionary filings of financing statements under the Uniform Commercial Code of any applicable jurisdictions in respect of operating leases or consignments entered into by the Borrower or its Subsidiaries in the ordinary course of business;

(o) Liens arising as a result of any agreement entered into in connection with a sale and leaseback transaction;

(p) Liens solely on any cash earnest money deposits made by the Borrower or its Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted under this Agreement;

(q) Liens on Capital Stock in joint ventures securing obligations of such joint ventures;

(r) Liens on proceeds of insurance policies securing insurance premiums financing arrangements; provided, that such Liens are limited to the applicable unpaid insurance premiums;

(s) [reserved]; and

(t) Liens securing Indebtedness described in Section 7.2(d)(i) that are junior in priority to the Liens securing the Obligations and subject to an intercreditor agreement on terms satisfactory to the Administrative Agent and the Designated Lenders; and

(u) other Liens securing Indebtedness outstanding in an aggregate principal amount not to exceed $1,100,000.

7.2 Indebtedness. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Indebtedness, except:

(a) (i) Indebtedness outstanding on the date hereof and described on Schedule 7.2(a) hereto, and (ii) the Exit First Lien Obligations (and any refinancing Indebtedness in respect thereof) in an aggregate principal amount outstanding not to exceed $~~32,000,000, and (iii) Indebtedness under the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~32,000,000;

(b) in the case of the Borrower,

(i) Indebtedness in respect of Swap Agreements entered into to hedge against fluctuations in interest rates, business commodities or utilities and not for speculative purposes, and

(ii) Indebtedness owed to a direct or indirect Wholly Owned Subsidiary of the Borrower, which Indebtedness (x) shall be subordinated to any Indebtedness of the Borrower under the Loan Documents on terms reasonably acceptable to the Administrative Agent and the Designated Lenders and (y) if evidenced by promissory notes, shall be in form and substance satisfactory to the Administrative Agent and the Designated Lenders and shall be pledged as security for the Obligations of the holder thereof under the Loan Documents to which such holder is a party and delivered to the Administrative Agent (or the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) pursuant to the terms of the Guarantee and Collateral Agreement;

(c) in the case of any Subsidiary of the Borrower, Indebtedness owed to the Borrower or to a Wholly Owned Subsidiary of the Borrower; provided that in each case, (i) to the extent such Indebtedness exceeds $250,000 in the aggregate, such Indebtedness shall be evidenced by promissory notes in form and substance satisfactory to the Administrative Agent and the Designated Lenders and such promissory notes shall be pledged as security for the Obligations of the holder thereof under the Loan Documents to which such holder is a party and delivered to the Administrative Agent (or the Exit First Lien Agent as its bailee for perfection pursuant to the Intercreditor Agreement) pursuant to the terms of the Guarantee and Collateral Agreement and (ii) the aggregate amount of such Indebtedness owed by a Subsidiary that is not a Loan Party shall not exceed $[__] at any time;

(d) the Indebtedness under the Loan Documents and, in the case of the Loan Parties and their Subsidiaries,

(i) So long as no Default has occurred and is continuing, Indebtedness which does not require the cash payment of interest in an aggregate principal amount (excluding any accrued interest that is paid in kind and added to the outstanding principal amount of such Indebtedness) not to exceed $3,300,000 at any time outstanding that is either (i) unsecured or (ii) secured by Liens permitted by Section 7.1(t); provided that to the extent any Indebtedness is created, incurred or assumed in compliance with this clause (i) while no Default has occurred and is continuing, such Indebtedness shall continue to be permitted under this clause (i) in the event that a Default has occurred and is continuing;

(ii) So long as no Default has occurred and is continuing, Indebtedness secured by Liens permitted by Section 7.1(u) not to exceed in the aggregate $1,100,000 at any time outstanding; provided that to the extent any Indebtedness is created, incurred or assumed in compliance with this clause (ii) while no Default has occurred and is continuing, such Indebtedness shall continue to be permitted under this clause (ii) in the event that a Default has occurred and is continuing;

(iii) Secured purchase money financing (including Capital Lease Obligations) whether incurred in contemplation of, at the time of, or within 180 days following, the acquisition of the related property or equipment, not to exceed in the aggregate $4,950,000 at any time outstanding, and in the case of purchase money financing or Capital Lease Obligations to which any Subsidiary of a Loan Party is a party, Indebtedness of the Loan Party of the type described in clause (h) of the definition

of "Indebtedness" guaranteeing the Obligations of such Subsidiary under the purchase money financing or Capital Lease Obligations permitted under this clause (iii); provided that, to the extent any Indebtedness arising under Capital Leases incurred under this Section 7.2(d)(iii) during any period of 12 consecutive fiscal months of the Borrower (or if less, the number of fiscal months subsequent to the Closing Date) exceeds $1,000,000 at any time outstanding, the amount of such excess shall reduce the amount of permitted Capital Expenditures during the applicable period under Section 7.16;[2]

(iv) Endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(v) Guarantee Obligations in favor of the Administrative Agent for the benefit of the Administrative Agent and the Secured Parties;

(vi) Guarantee Obligations with respect to Indebtedness permitted pursuant to this Section 7.2 (provided that if such Indebtedness is subordinated to the Obligations, any such related Guarantee Obligation shall be subordinated to the same extent as the underlying subordinated Indebtedness) and Guarantee Obligations of other obligations not comprising Indebtedness of the Borrower or any of its Subsidiaries entered into in the ordinary course of business and not prohibited hereunder;

(vii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or other similar instrument drawn against insufficient funds in the ordinary course of business;

(viii) Obligations of the Borrower or any of its Subsidiaries in respect of performance bonds, bankers' acceptances, workers' compensation claims, surety, bid or appeal bonds, completion guarantees and payment obligations in connection with self-insurance or similar obligations provided by the Borrower or any of its Subsidiaries in the ordinary course of business, and obligations owed to (including in respect of letters of credit for the benefit of) any Person in connection with workers' compensation, health, disability, or other employee benefits or property, casualty or liability insurance provided by such Person to the Borrower or any of its Subsidiaries pursuant to reimbursement or indemnification obligations to such Person, in each case, in the ordinary course of business;

(ix) Indebtedness arising from agreements of the Borrower or any of its Subsidiaries providing for customary indemnification, adjustment of purchase price based on changes in working capital and earn-outs (based on changes in working capital and earn-outs based on the income generated by assets acquired) or similar obligations, in each case, incurred or assumed in connection with the disposition of any Subsidiary or assets permitted under Section 7.5 or any investment permitted under Section 7.6; and

(x) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business with the providers of such insurance or their Affiliates~~;~~.

7.3 Changes in Nature of Business. With respect to the Borrower, will not, nor will it permit any of its Subsidiaries to, alter in any material respect the character or conduct of the business conducted by the Borrower and its Subsidiaries as of the Closing Date, other than engaging in businesses

[2] NTD: Corresponding change to be made to First Lien Credit Agreement.

that are ancillary or related thereto, or any business or activity that is reasonably similar thereto or a reasonable extension, development or expansion thereof or ancillary thereto.

7.4 Mergers, Etc. Merge into or consolidate with any Person or permit any Person to merge into it, or permit any of its Subsidiaries to do so, except that:

(a) any Subsidiary of the Borrower may merge into or consolidate with the Borrower (with, for the avoidance of doubt, the Borrower as the surviving or continuing Person) or any other Subsidiary of the Borrower, provided that, in the case of any merger or consolidation with another Subsidiary, the Person formed by such merger or consolidation shall be a direct or indirect Wholly Owned Subsidiary of the Borrower, provided further that, in the case of any such merger or consolidation to which a Loan Party is a party, the Person formed by such merger or consolidation shall be a Loan Party;

(b) in connection with any acquisition permitted under Section 7.6, any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it; provided that the Person surviving such merger shall be a Wholly Owned Subsidiary of the Borrower and the provisions of Section 6.9 shall have been complied with;

(c) in connection with any sale or other disposition (which takes the form of a merger rather than a sale of stock or assets) permitted under Section 7.5 (other than clause (b) thereof), any Subsidiary of the Borrower may merge into or consolidate with any other Person or permit any other Person to merge into or consolidate with it;

(d) any Subsidiary of the Borrower may wind-up into the Borrower or a Subsidiary Guarantor; and

(e) any Subsidiary of the Borrower may sell, lease, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower or any other Subsidiary of the Borrower (provided that (i) if the transferor in such a transaction is a Subsidiary Guarantor, then the transferee must either be the Borrower or a Subsidiary Guarantor and (ii) the transferee or continuing or surviving Person shall be a Wholly Owned Subsidiary of the Borrower); provided, however, that in the case of any such merger to which the Borrower is a party, the Borrower is the surviving corporation.

7.5 Sales, Etc., of Assets. Sell, lease, transfer or otherwise dispose of (including by any sale and leaseback transaction), or permit any of its Subsidiaries to sell, lease, transfer or otherwise dispose of (including by any sale and leaseback transaction), any assets, or grant any option or other right to purchase, lease or otherwise acquire, or permit any of its Subsidiaries to grant any option or other right to purchase, lease or otherwise acquire any assets, except:

(a) sales of inventory in the ordinary course of its business and the granting of any option or other right to purchase, lease or otherwise acquire inventory in the ordinary course of its business;

(b) in a transaction authorized by Section 7.4 (other than subsection (c) thereof);

(c) sales, transfers or other dispositions of assets among the Borrower and Subsidiary Guarantors

(d) the sale of any asset by the Borrower or any of its Subsidiaries (other than a bulk sale of inventory) so long as (i) no Event of Default shall occur and be continuing, (ii) the purchase price

paid to the Borrower or such Subsidiary for such asset shall be no less than the fair market value of such asset at the time of such sale, (iii) the purchase price for such asset shall be paid to the Borrower or such Subsidiary in cash, (iv) the Net Cash Proceeds of such asset sale received by the Borrower or such Subsidiary shall be applied to prepay the Loans to the extent required under Section 2.6, (v) the aggregate fair market value of such asset and all other assets sold by the Borrower and its Subsidiaries, and the aggregate purchase price paid to the Borrower and all of its Subsidiaries for such asset and all other assets sold by the Borrower and its Subsidiaries, in each case after the Closing Date, shall not exceed $[5,500,000] in the aggregate; provided that restaurant properties sold to franchisees shall be excluded from such limitation; provided further that restaurant properties sold to franchisees shall not exceed $[5,500,000] in sales price paid for any individual sale and the aggregate sales price for all such sales from and after the date of this Agreement shall not exceed $[22,000,000] in the aggregate;

(e) [reserved];

(f) the sale by the Borrower or any of its Subsidiaries of obsolete, worn-out, damaged, unusable or surplus assets no longer used in the business of the Borrower or any of its Subsidiaries in the ordinary course of business;

(g) the sale or discount without recourse by the Borrower or any Subsidiary thereof of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof;

(h) subject to the requirements of Section 4.17, the disposition by the Borrower or any of its Subsidiaries of any Swap Agreement;

(i) dispositions by Holdings or any of its Subsidiaries of investments in cash and Cash Equivalents in the ordinary course of business;

(j) (i) any Subsidiary Guarantor may transfer assets to the Borrower or any other Subsidiary Guarantor, (ii) Holdings may transfer assets (other than Capital Stock of the Borrower) to the Borrower or any other Subsidiary Guarantor, and (iii) any Subsidiary of the Borrower that is not a Subsidiary Guarantor may transfer assets to the Borrower or any Subsidiary Guarantor (provided that, in connection with any such transfer, the Borrower or such Subsidiary Guarantor shall not pay more than an amount equal to the fair market value of such assets as determined at the time of such transfer)

(k) the lease, sublease, license, sublicense, abandonment, non-renewal or other disposition of intellectual property in the ordinary course of business consistent with past practice;

(l) leases, subleases, licenses or sublicenses of real or personal property with respect to no greater than five locations granted by the Borrower or any of its Subsidiaries to others in the ordinary course of business not interfering in any material respect with the business of Borrower or any of its Subsidiaries;

(m) dispositions by the Borrower or any of its Subsidiaries of property or assets subject to an insurance claim or condemnation proceeding; and

(n) dispositions by the Borrower or any of its Subsidiaries of capital assets in the ordinary course of business to the extent that (i) such capital assets are promptly exchanged for credit against the purchase price of similar replacement capital assets and (ii) the proceeds of such disposition are promptly applied to the purchase price of such replacement capital assets.

7.6 Investments in Other Persons. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, "Investments"), except:

(a) equity Investments by Holdings, the Borrower and their respective Subsidiaries in their respective Subsidiaries outstanding on the date hereof and additional equity Investments in Loan Parties;

(b) Investments by the Loan Parties and their Subsidiaries in Cash Equivalents;

(c) Investments existing on the date hereof and described on Schedule 7.6(c) hereto;

(d) Investments by the Borrower in Swap Agreements permitted under Section 7.2(b);

(e) Investments consisting of intercompany Indebtedness permitted under Section 7.2;

(f) Capital Expenditures permitted under Section 7.16;

(g) purchases of assets (other than Capital Expenditures) in the ordinary course of business;

(h) Investments by the Borrower and its Subsidiaries not otherwise permitted under this Section 7.6 in an aggregate amount not to exceed $[1,100,000]; provided that immediately before and after giving effect to any such Investment, no Default shall have occurred and be continuing;

(i) prepaid expenses or lease, utility and other similar deposits, in each case in the ordinary course of business;

(j) investments arising out of the receipt by the Borrower or any of its Subsidiaries of noncash consideration for any disposition of assets permitted pursuant to Section 7.5;

(k) investments resulting from pledges or deposits referred to in Section 7.1;

(l) notes from officers and employees, not to exceed an aggregate amount of $5,500,000, in exchange for equity interests of Holdings or any entity that directly or indirectly owns 100% of the equity of Holdings purchased by such officers or employees pursuant to a stock ownership or purchase plan or compensation plan; and

(m) Guarantee Obligations permitted pursuant to Section 7.2.

7.7 Restricted Payments. Declare or pay any dividends, purchase, redeem, retire, defease or otherwise acquire for value any of its Capital Stock now or hereafter outstanding, return any capital to its stockholders, partners or members (or the equivalent Persons thereof) as such, make any distribution of assets, Capital Stock, obligations or securities to its stockholders, partners or members (or the equivalent Persons thereof) as such, or permit any of its Subsidiaries to do any of the foregoing, or permit any of its Subsidiaries to purchase, redeem, retire, defease or otherwise acquire for value any Capital Stock in the Borrower or to issue or sell any Capital Stock therein, except that:

(a) any Wholly Owned Subsidiary of the Borrower may pay cash dividends or make distributions to the holders of its Capital Stock;

(b) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may declare and pay cash dividends and distributions (and each Subsidiary of the Borrower may declare and pay cash dividends and distributions to the Borrower or any of its Subsidiaries to enable the Borrower to do the same) to any direct or indirect parent to the extent necessary so that such parent may:

(i) in the event of the termination, dismissal, death, or disability of an officer, employee or director, of Holdings, any of its Subsidiaries, or any direct or indirect parent company of Holdings, purchase its Capital Stock or options in respect of its Capital Stock from such officer, employee or director (or the estate or heirs thereof), or make severance payments to such Persons (x) to the extent that such purchase is made with the net proceeds of (1) any offering of equity securities of Holdings which is not subject to prepayment requirements under this Agreement or (2) any key man life insurance policy maintained on the life of the Person with respect to whom such repurchase is made or (y) otherwise in an aggregate amount not to exceed $1,100,000 during any fiscal year, provided, however, that 100% of the unused amount of such payments that were permitted to be made during the immediately preceding fiscal year may be carried over for expenditure in the immediately following fiscal year; provided further, that such expenditures made pursuant to this Section during any fiscal year shall be deemed made, first, in respect of amounts carried over from the prior fiscal years and second, in respect of amounts permitted for the then-current fiscal year;

(ii) pay foreign, federal, state and local Taxes, to the extent such Taxes are attributable to the income or business of the Borrower or any of its Subsidiaries being included on a consolidated or other combined Tax return of an applicable parent; provided that the amount of such payments in any fiscal year does not exceed the amount of consolidated or other combined Taxes allocable to the Borrower and its Subsidiaries on a "with and without" basis;

(iii) pay (A) fees and expenses (including franchise or similar Taxes) required to maintain the corporate existence of such direct or indirect parent entity, (B) customary salary, bonus and other benefits in an aggregate amount not exceeding $275,000 per annum payable to third party directors of all such direct or indirect parent entities, if applicable, (C) customary indemnities provided on behalf of directors, officers and employees of such direct or indirect parent entity, if applicable, and (D) ~~legal, auditor,~~ general corporate overhead~~,~~ expenses (including legal, auditor and other customary expenses (~~other than~~not including management fees) in the ordinary course of business) of such direct or indirect parent entity, in each case to the extent such fees, expenses, salary, benefits, indemnities and other amounts are attributable to the ownership or operation of the Borrower, if applicable, and its Subsidiaries (provided, that for so long as such direct or indirect parent entity owns no assets other than the Capital Stock of the Borrower or another direct or indirect parent entity, such fees and expenses shall be deemed for purposes of this clause (iii) to be so attributable to such ownership or operation); and

(iv) pay amounts required for any direct or indirect parent entity to pay fees and expenses, other than to Affiliates of the Borrower, related to the maintenance of such parent entity of its corporate or other entity existence and performance of its obligations

under the Loan Documents, the Exit First Lien Facility, ~~the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization),~~ and agreements relating thereto to the extent such obligations are permitted by Section 7.12;

(c) Holdings may accrue dividends on any of its Capital Stock; provided that such dividends may not be paid in cash; and

(d) so long as no Default shall have occurred and be continuing or would result therefrom, the Borrower may issue (A) rights or options to acquire Capital Stock of the Borrower pursuant to employee stock purchase plans, director or employee option plans and other employee benefit plans and (B) common stock upon the exercise of options issued under, or pursuant to, employee stock purchase plans, director or employee option plans and other employee benefit plans.

7.8 Amendments of Constitutive Documents~~,~~ and Exit First Lien Facility ~~and Exit Third Lien Note~~. Amend, restate, supplement or otherwise modify or agree to any amendment, restatement, supplement or other modification of, (a) its certificate of incorporation, certificate of formation, operating agreement, bylaws or other constitutive document other than amendments, restatements, supplements or other modifications that could not be reasonably expected to have a Material Adverse Effect or adversely affect the interests of the Administrative Agent or the Lenders, (b) the Exit First Lien Loan Documents~~,~~ or the Exit First Lien Obligations ~~or, if issued pursuant to the Plan of Reorganization, the Exit Third Lien Notes,~~ in each case, except to the extent permitted by the Intercreditor Agreement or (c) any document, agreement or instrument evidencing or governing any Indebtedness that has been subordinated to the Obligations in the right of payment or any Liens that have been subordinated in priority to the Liens of the Administrative Agent except to the extent permitted by the applicable subordination agreement or subordination terms.

7.9 Accounting Changes. Make or permit any change in (i) accounting policies or reporting practices except as permitted by GAAP or (ii) its fiscal year without the prior written consent of the ~~Administrative Agent~~Designated Lenders, which consent shall not be unreasonably withheld.

7.10 Prepayments, Etc., of Indebtedness. Make or offer to make any payment, prepayment, repurchase or redemption of or otherwise defease or segregate funds with respect to ~~(i) if issued pursuant to the Plan of Reorganization, the Exit Third Lien Notes, except to the extent expressly permitted by the Intercreditor Agreement or (ii)~~ any Indebtedness that has been subordinated in right of payment to the Obligations except to the extent expressly permitted by the subordination terms and conditions applicable thereto.

7.11 Negative Pledge. Enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement prohibiting or restricting the creation or assumption of any Lien upon any of its property or assets except (i) in favor of the Secured Parties, (ii) in connection with any Indebtedness permitted under Section 7.2 and secured by Liens permitted under Section 7.1, and any agreement prohibiting further Liens on the properties encumbered thereby; (iii) in connection with the Exit First Lien Facility ~~and the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~, (iv) customary anti-assignment provisions in contracts restricting the assignment thereof, (v) pursuant to any Swap Agreements permitted hereunder, (vi) customary provisions in leases restricting assignability or subleasing, (vii) restrictions which are not more restrictive than those contained in this Agreement with respect to Subsidiaries of the Borrower contained in any documents governing any Indebtedness incurred after the Closing Date in accordance with the provisions of this Agreement, (viii) under any documents relating to joint ventures of Borrower or any Subsidiary to the extent that such joint ventures are not prohibited hereunder, (ix) any prohibition or limitation that (A) exists pursuant to applicable Requirements of Law or (B) consists of customary restrictions and

conditions contained in agreements relating to the sale of assets or equity permitted hereunder by Borrower or any Subsidiary pending such sale, provided such restrictions and conditions apply only to the assets of Borrower or the Subsidiary that are to be sold, (x) any prohibition or limitation that arises under any agreement that does not restrict in any manner (directly or indirectly) Liens created in favor of the Secured Parties on any Collateral securing the Obligations and does not require the direct or indirect grant of Liens securing any Indebtedness or other obligation by virtue of the granting of Liens on or the pledge of property of any Loan Party to secure the Obligations, and (xi) licenses or contracts entered into in the ordinary course of business which by the terms of such licenses and contacts prohibit the granting of Liens on the rights contained therein.

7.12 Holding Company. (a) Solely with respect to Holdings, conduct, transact or otherwise engage, or commit to conduct, transact or otherwise engage, in any business or operations other than (i) its direct ownership of all of the Capital Stock of, and its management of, the Borrower, (ii) the Transactions or the other transactions contemplated by the Confirmation Order and Plan of Reorganization, (iii) performance of its obligations under this Agreement and the other Loan Documents and the other agreements contemplated thereby or by the Confirmation Order and Plan of Reorganization (collectively, the "Transaction Documents") and other activities to the extent permitted by and in compliance with the Transaction Documents, (iv) the provision of administrative, legal, accounting, tax and management services to, or on behalf of, any of its Subsidiaries, (v) the entry into, and exercise of rights and performance of obligations in respect of (A) any other agreement to which it is a party on the Closing Date; in each case as amended, supplemented waived or otherwise modified from time to time, and any refinancings, refundings, renewals or extensions thereof in accordance with such Transaction Documents, (B) contracts and agreements with officers, directors and employees of Holdings or any of its Subsidiaries relating to their employment or directorships, (C) insurance policies and related contracts and agreements, and (D) equity subscription agreements, registration rights agreements, voting and other stockholder agreements, engagement letters, underwriting agreements and other agreements in respect of its equity securities or any offering, issuance or sale thereof, (vi) the offering, issuance, sale and repurchase or redemption of, and dividends or distributions on its equity securities, (vii) the filing of registration statements, and compliance with applicable reporting and other obligations, under federal, state or other securities laws, (viii) the listing of its equity securities and compliance with applicable reporting and other obligations in connection therewith, (ix) the retention of (and the entry into, and exercise of rights and performance of obligations in respect of, contracts and agreements with) transfer agents, private placement agents and underwriters with respect to equity securities and, counsel, accountants and other advisors and consultants, (x) the performance of obligations under and compliance with its certificate of incorporation and by-laws, or any applicable law, ordinance, regulation, rule, order, judgment, decree or permit, including, without limitation, as a result of or in connection with the activities of its Subsidiaries, (xi) the incurrence and payment of its operating and business expenses and any Taxes for which it may be liable and (xii) other activities incidental or related to the foregoing.

(b) Notwithstanding anything herein to the contrary, Holdings will not create, incur, assume or permit to exist any Indebtedness or other liabilities except Indebtedness created under the Loan Documents, the Exit First Lien Facility, ~~the Exit Third Lien Notes (only if issued in accordance with the Plan of Reorganization)~~ and liabilities imposed by law, including Tax liabilities, and other liabilities incidental to its existence and permitted business and activities.

(c) Notwithstanding anything herein to the contrary, Holdings will not create, incur, assume or permit to exist any Lien (other than Permitted Liens and Liens permitted under Section 7.1(a) and Section 7.1(d)) on any of the Capital Stock issued by the Borrower to Holdings.

7.13 Payment Restrictions Affecting Subsidiaries. Directly or indirectly, enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or

arrangement limiting the ability of any of its Subsidiaries to declare or pay dividends or other distributions in respect of its Capital Stock or repay or prepay any Indebtedness owed to, make loans or advances to, or otherwise transfer assets to or invest in, the Borrower or any Subsidiary of the Borrower (whether through a covenant restricting dividends, loans, asset transfers or investments, a financial covenant or otherwise), except (i) the Loan Documents, (ii) any agreement in effect at the time such Subsidiary becomes a Subsidiary of the Borrower, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower and (iii) provisions described in clauses (iii) through (x) of Section 7.11 or directly related thereto.

7.14 Transactions with Affiliates. With the exception of inter-company transactions among the Loan Parties, conduct, and permit any of its Subsidiaries to conduct, any transaction with any of their Affiliates on terms that are either not fair and reasonable or less favorable to the Loan Party or such Subsidiary than it would obtain in a comparable arm's-length transaction with a Person not an Affiliate; provided that the foregoing provision shall not be deemed to be breached by the following:

(a) transactions permitted by Sections 7.7 and 7.12;

(b) any equity issuance permitted hereunder;

(c) customary indemnities to, and expense reimbursements of, officers and directors of Holdings and its Subsidiaries;

(d) transactions consummated on the Closing Date required by, and pursuant to, the Confirmation Order and Plan of Reorganization; and

(e) customary transactions in connection with customary and reasonable employment and consulting agreements and arrangements entered into in the ordinary course of business with officers, management, employees and consultants (including, without limitation, in connection with employment compensation and employee benefit plans entered into in the ordinary course of business) and the issuance, grant, award or sale of Capital Stock and payments, awards, options and other rights or interests, in each case in the ordinary course of business, in each case, as approved by the applicable board of directors (or equivalent governing body).

7.15 Use of Proceeds. Permit the proceeds of the Loans to be used for any purpose other than those permitted by Section 4.17, including for the avoidance of doubt, (i) requesting any borrowing or using the proceeds of any Loan (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

7.16 Capital Expenditures. Make or commit to make, or permit any of its Subsidiaries to make or commit to make, any Capital Expenditure during any period of twelve consecutive fiscal months of the Borrower (or if less, the number of full fiscal months subsequent to the Closing Date) ending in any fiscal month set forth below exceeding the amount set forth below opposite such fiscal month:

Fiscal Months	Amount
November 2016	[$1,013,073

December 2016	$2,115,157
January 2017	$3,217,240
February 2017	$4,319,323
March 2017	$5,421,407
April 2017	$6,523,490
May 2017	$7,625,573
June 2017	$8,727,657
July 2017	$9,829,740
August 2017	$10,931,823
September 2017	$12,033,907
October 2017	$13,135,990
Thereafter	$13,225,000]

7.17 Financial Covenants.

(a) Minimum EBITDA.[1] Permit Consolidated EBITDA as of the last day of any period of twelve consecutive fiscal months of the Borrower ending with any fiscal month set forth below to be less than the amount set forth below opposite such fiscal month:

Each Fiscal Month	Minimum Consolidated EBITDA
November 2016	[$8,533,453
December 2016	$8,429,394
January 2017	$8,261,865
February 2017	$8,234,163
March 2017	$8,960,410
April 2017	$11,922,616
May 2017	$12,353,520
June 2017	$12,171,847
July 2017	$11,699,919
August 2017	$11,975,317
September 2017	$14,464,432
October 2017	$15,286,753
November 2017	$15,845,706
December 2017	$18,003,778
Monthly Thereafter	TBD]

For purposes of determining Consolidated EBITDA under this Section 7.17(a), pro forma effect shall be given to each component as set forth in the last sentence of the definition of "Consolidated EBITDA".

(b) [Reserved].

(c) Minimum Liquidity. Permit the Liquidity as of the last day of any fiscal month of the Borrower set forth below to be less than the amount set forth below opposite such fiscal month:

[1] ~~NTD: Subject to receipt of updated projections.~~

Each Fiscal Month	Minimum Liquidity
From the Closing Date through March 31, 2017	$5,000,000
Ending April 30, 2017 through December 31, 2017	$6,000,000
Ending January 31, 2018 through the Maturity Date	$7,500,000

SECTION 8. EVENTS OF DEFAULT

If any of the following events shall occur and be continuing:

(a) any Loan Party shall fail to pay (i) any principal of any Loan when due in accordance with the terms hereof or (ii) any interest on any Loan, or any other amount payable hereunder or under any other Loan Document, within five days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party herein or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect on or as of the date made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in clause (i) or (ii) of Section 6.4(a) (with respect to Holdings and the Borrower only), Section 6.7(a) or Section 7 of this Agreement or [Section 5.5] of the Guarantee and Collateral Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of 30 days after notice to the Borrower from the Administrative Agent or the Required Lenders; or

(e) (1) any Group Member shall (i) default in making any payment of any principal of any Indebtedness (including any Guarantee Obligation, but excluding the Loans and the Exit First Lien Obligations) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or beneficiary of such Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable, and in each of the foregoing, such failure shall continue after the expiration of the applicable grace period; provided, that a default, event or condition described in clause (i), (ii) or (iii) of this paragraph (e) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in clauses (i), (ii) and (iii) of this paragraph (e) shall have occurred and be continuing with respect to Indebtedness the aggregate outstanding principal amount of which is ~~$[~~1,100,000~~]~~ or more, or (2) any Event of Default under, and as defined in, the Exit First Lien Agreement exists and results in an acceleration of all or any portion of, or the exercise of any remedy with respect to, the Exit First Lien Obligations; or

(f) (i) any Group Member shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets; or (ii) there shall be commenced against any Group Member any case, proceeding or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed or undischarged for a period of 60 days; or (iii) there shall be commenced against any Group Member any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) any Group Member shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or (vi) or any Group Member shall make a general assignment for the benefit of its creditors; or

(g) (i) an ERISA Event shall have occurred, (ii) a trustee shall be appointed by a United States district court to administer any Pension Plan(s), (iii) the PBGC shall institute proceedings to terminate any Pension Plan(s), (iv) any Loan Party or any of their respective ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; or (v) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (v) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to result in a Material Adverse Effect; or

(h) one or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of $[_____] or more other than a judgment or decree that is entered against any Group Member for which the underlying liability is treated under the Plan of Reorganization as a "General Unsecured Claim" (as defined therein) or included in any class junior to General Unsecured Claims and is satisfied with proceeds of the General Unsecured Claim Cash Pool (as defined in the Plan of Reorganization) pursuant to the terms of the Plan of Reorganization (if entitled to any distribution thereunder), and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 30 days from the entry thereof; or

(i) (A)(x) the Intercreditor Agreement or any material provision thereof or (y) the subordination provisions of any agreement or instrument governing any Indebtedness required to be subordinated to the Obligations pursuant to the terms hereof, in each case, shall cease, for any reason, to be in full force and effect, or any party thereto, including any Loan Party or any Affiliate of any Loan Party shall so assert, or any of the Obligations or the Liens securing the Obligations for any reason shall not have the priority contemplated by this Agreement, the Intercreditor Agreement or such other subordination provisions, or (B) any of the Security Documents or any material provision of any other Loan Document shall cease, for any reason, to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby other than in respect of any item or items of Collateral the fair market value of which, either individually or in the

aggregate, does not exceed $~~[275,000],~~275,000, except as a result of the action or inaction of the Administrative Agent or Lenders; or

(j) the guarantee contained in [Section 2] of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party or any Affiliate of any Loan Party shall so assert; or

(k) a Change of Control shall have occurred;

and in any such event, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) above with respect to the Borrower, automatically the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall immediately become due and payable, and (B) if such event is any other Event of Default, with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable, and/or exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law. Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

Upon the occurrence and during the continuance of an Event of Default, any amounts received on account of the Obligations shall be applied by the Administrative Agent and the Lenders in the following order, upon the direction of the Required Lenders, subject to the terms of the Intercreditor Agreement:

First, to the payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts payable or reimbursable to the Administrative Agent in its capacity as such;

Second, to the payment of that portion of the Obligations constituting fees, indemnities and expenses payable or reimbursable to the Lenders, ratable to the Lenders in proportion to their respective Pro Rata Shares;

Third, to the payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably to the Lenders in proportion to their respective Pro Rata Shares;

Fourth, to the payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably to the Lenders in proportion to their respective Pro Rata Shares;

Fifth, to the payment of any other unpaid Obligations; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full in cash, to the borrower or as otherwise required by applicable law.

SECTION 9. THE AGENT

9.1 Appointment. Each Lender hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents, and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are

reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent.

9.2 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement and the other Loan Documents by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in-fact selected by it with reasonable care.

9.3 Exculpatory Provisions. Neither the Administrative Agent nor any of their respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. The Administrative Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy or email message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to Holdings or the Borrower), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received written notice from a Lender, Holdings or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such written notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give

notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

9.6 Non-Reliance on Administrative Agent and Other Lenders. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its respective officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, advisors, attorneys-in-fact or affiliates.

9.7 Indemnification. The Lenders agree to indemnify and hold harmless the Administrative Agent and its officers, directors, employees, affiliates, agents, advisors and controlling persons (each, an "Agent Indemnitee" and such affiliates, directors, officers, employees, advisors, agents and other representatives of any such Agent Indemnitee are referred to herein as its "related parties") (to the extent not reimbursed by Holdings or the Borrower and without limiting the obligation of Holdings or the Borrower to do so), ratably according to their respective Pro Rata Shares in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Loans shall have been paid in full, ratably in accordance with such Pro Rata Shares immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee's bad faith, gross negligence, willful misconduct or material breach of the obligations of the relevant Agent Indemnitee (or its related parties) under this Agreement. The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

9.8 Administrative Agent in Its Individual Capacity. The Administrative Agent and its affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party as though the Administrative Agent were not the Administrative Agent. With respect to its Loans made or renewed by it, the Administrative Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" shall include the Administrative Agent in its individual capacity.

9.9 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent upon 10 days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign as Administrative Agent under this Agreement and the other Loan Documents, then the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless an Event of Default under Section 8(a) or Section 8(f) with respect to the Borrower shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld, conditioned or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term "Administrative Agent" shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent's rights, powers and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 10 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. The retiring Administrative Agent shall take such actions, including execution and delivery of documents, as may be reasonably necessary to assign to the successor agent its rights as Administrative Agent under the Loan Documents and maintain perfected first or second priority, as appropriate, (subject in the case of priority to Permitted Liens and the Intercreditor Agreement) liens upon the Collateral. After any retiring Administrative Agent's resignation as Administrative Agent, the provisions of this Section 9 and of Section 10.5 shall continue to inure to its benefit.

SECTION 10. MISCELLANEOUS

10.1 Amendments and Waivers. Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall:

(i) forgive the principal amount, reduce the stated rate of any interest or fee payable hereunder (or change the manner of computation of such rate of interest or fee that would result in a reduction of any interest rate on any Loan or any fee payable hereunder) (except (x) in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Required Lenders) and (y) that any amendment

or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or fees for purposes of this clause (i)) or extend the scheduled date of any payment thereof, in each case without the written consent of each Lender directly affected thereby;

(ii) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under such other Loan Documents or extend the Maturity Date beyond [__],[3] in each case without the written consent of the Designated Lenders;

(iii) (A) change any provision of this Section 10.1, the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender, other than any such change that would only affect the Designated Lenders in which case the written consent of the Designated Lenders shall be required to make such change or (B) change the definition of "Designated Lenders" without the written consent of the Designated Lenders;

(iv) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(v) release all or substantially all of the Subsidiary Guarantors from their obligations under the Guarantee and Collateral Agreement without the written consent of each Lender;

(vi) impose any greater restriction on the ability of any Lender to assign any of its rights or obligations hereunder without the written consent of each affected Lender;

(vii) subordinate the Obligations or the Liens securing the Obligations without the written consent of the Designated Lenders;

(viii) subject to clause (ii) of this Section 10.1, alter any Event of Default in a manner adverse to the Lenders without the written consent of the Designated Lenders;

(ix) change the terms of this Agreement in a manner that would materially adversely affect any of the rights or obligations of any Designated Lender in a manner that is different or disproportionate in any respect from the effect on the rights or obligations (as applicable) of the Designated Lenders generally, other than in proportion to the Designated Lenders' respective amounts of the Loans, without the written consent of the Designated Lenders;

(x) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents without the written consent of all Lenders;

(xi) waive any Event of Default set forth in Section 8(k) or modify or otherwise change the definition of "Change of Control", in each case, without the consent of the Designated Lenders;

(xii) amend, modify or waive any provision of Section 9 or Section 2.18 or any other provision of any Loan Document that affects the Administrative Agent without the written consent of the Administrative Agent; or

[3] NTD: To be one month following the Maturity Date consistent with the corresponding concept in the DIP Credit Agreement.

(xiii) change (A) Section 2.12 or Section 8 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender or (B) the order of application of any prepayment of Loans from the application thereof set forth in the applicable provisions of Section 2.6 without the consent of each affected Lender.

Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon.

10.2 Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy or electronic mail), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy or electronic mail notice, when received, addressed as follows in the case of Holdings, the Borrower and the Administrative Agent, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:

~~[Holdings:~~	~~See address for the Borrower below~~ ~~Attention: [_____]~~ ~~Email: [_____]~~ ~~Telecopy: [_____]~~ ~~Telephone: [_____]]~~
Borrower or any other Loan Party:	Logan's Roadhouse, Inc. 3011 Armory Drive, Ste. 301 Nashville, TN 37204 Attention: [_____] Email: [_____] Telecopy: [_____] Telephone: [_____]]
Administrative Agent:	~~[~~Cortland Capital Market Services LLC~~]~~ 225 West Washington St., 21st Floor Chicago, Illinois 60606 Attention: Ryan Morick and Legal Department Fax No.: 302-376-0751 E-mail: ryan.morick@cortlandglobal.com and ~~[~~~~]~~Legal@cortlandglobal.com ~~Attention:~~ ~~Email:~~ ~~Telecopy:~~ ~~Telephone:~~
with a copy to	~~[~~~~]~~Morris, Nichols, Arsht & Tunnell LLP 1201 North Market St., 16th Floor P.O. Box 1347

Wilmington, Delaware 19899-1347
Attention: Robert J. Dehney and Tarik J. Haskins
Email: rdehney@mnat.com and
thaskins@mnat.com Telecopy: (302) 658-3989
Telephone: (302) 351-9353 and (302) 351-9120
~~Attention:~~
~~Email:~~
~~Telecopy:~~
~~Telephone:]~~

provided that any notice, request or demand to or upon the Administrative Agent or the Lenders shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Payment of Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable and documented fees and disbursements of counsel to the Administrative Agent and filing and recording fees and expenses, with statements with respect to the foregoing to be submitted to the Borrower at least one Business Day prior to the Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on ~~a quarterly basis or~~ such ~~other periodic~~ basis as the Administrative Agent shall deem appropriate, (b) to pay or reimburse the Lenders for all of the reasonable and documented out-of-pocket costs, fees, disbursements and expenses of outside counsel, local counsel and if deemed necessary in the sole discretion of the Lenders, financial advisors, incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, with statements with respect to the foregoing to be submitted to the Borrower at least one Business Day prior to the

Closing Date (in the case of amounts to be paid on the Closing Date) and from time to time thereafter on a quarterly basis or such other periodic basis as the Lenders shall deem appropriate, (c) to pay or reimburse each Lender and the Administrative Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Loan Documents and any such other documents, including the fees and disbursements of one primary outside counsel and one local counsel and, if deemed reasonably necessary in the sole discretion of the Lenders, one financial advisor, to the Lenders and the Administrative Agent, (d) to pay, indemnify, and hold each Lender and the Administrative Agent harmless from, any and all recording and filing fees that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, the other Loan Documents and any such other documents, and (e) to pay, indemnify, and hold each Lender and the Administrative Agent and their respective officers, directors, employees, affiliates, agents, advisors and controlling persons (each, an "Indemnitee") harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, reasonable costs, reasonable expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to the use of proceeds of the Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of any Group Member or any of the Properties and the reasonable fees and expenses of legal counsel in connection with claims, actions or proceedings by any Indemnitee against any Loan Party under any Loan Document (all the foregoing in this clause (e), collectively, the "Indemnified Liabilities"), provided, that the Borrower shall have no obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence, bad faith, or willful misconduct of such Indemnitee (or any of its related parties) or the material breach of the obligations of such Indemnitee (or any of its related parties) under this Agreement or the other Loan Documents. Without limiting the foregoing, and to the extent permitted by applicable law, the Borrower agrees not to assert and to cause its Subsidiaries not to assert, and hereby waives and agrees to cause its Subsidiaries to waive, all rights for contribution or any other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws, except to the extent any such right results from the gross negligence, bad faith, or willful misconduct of the Indemnitee (or any of its related parties) against whom such rights are asserted. All amounts due under this Section 10.5 shall be payable not later than 10 days after written demand therefor. Statements payable by the Borrower pursuant to this Section 10.5 shall be submitted to the Chief Financial Officer (or Vice President of Finance if the Chief Financial Officer position is vacant) of the Borrower, at the address of the Borrower set forth in Section 10.2, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Administrative Agent. The agreements in this Section 10.5 shall survive the termination of this Agreement and the repayment of the Loans and all other amounts payable hereunder. Notwithstanding the foregoing, the Borrower shall not be responsible for any Taxes under this Section 10.5, other than any Taxes that are losses or damages incurred in respect of any non-Tax Indemnified Liability.

10.6 Successors and Assigns; Participations and Assignments. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an "Assignee"), other than ~~a~~ a Management Investor or a natural person, all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent of:

(A) the Borrower (not to be unreasonably withheld, conditioned or delayed); provided that no consent of the Borrower shall be required for an assignment to a Lender, an affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default has occurred and is continuing, any other Person; provided further that the Borrower shall be deemed to have consented to any such assignment unless the Borrower has objected thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof; and

(B) the Administrative Agent.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that (1) no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 (which such fee may be waived by the Administrative Agent in its sole discretion) and (2) the assigning Lender shall have paid in full any amounts owing by it to the Administrative Agent;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an administrative questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; and

(D) without the prior written consent of the Administrative Agent and the Borrower, no assignment shall be made to a prospective Assignee that bears a relationship to the Borrower described in Section 108(e)(4) of the Code.

For the purposes of this Section 10.6, "Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered, managed advised or sub-advised by (a) a GSO Entity, (b) a Carl Marks Entity, (c) a Marblegate Entity, (d) a Kelso Entity, (e) a Lender, (f) an affiliate of a Lender or (g) an entity or an affiliate of an entity that administers, manages or subadvises a Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Assumption the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.13, 2.14, 2.15 and 10.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 10.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and the principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice. For the avoidance of doubt, this Section 10.6 shall be construed so that the Loans of each Lender are at all times maintained in "registered form" within the meaning of Treasury regulations 5f.103-1(c) (and any successor regulations), and in no event shall any obligation hereunder be considered a bearer instrument or obligation within the meaning of Section 163(f) of the Code.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire and all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Patriot Act (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") other than a Management Investor, in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent, and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and (D) without the prior written consent of the Administrative Agent and the Borrower, no participation shall be sold to a prospective Participant that bears a relationship to the Borrower described in Section 108(e)(4) of the Code. 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 to approve any amendment, modification

or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (1) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.1 and (2) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of, and subject to the limitations of, Sections 2.13, 2.14 and 2.15 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7(b) as though it were a Lender, provided such Participant shall be subject to Section 10.7(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments or Loans or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender, each Loan Party and the Administrative Agent shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(ii) A Participant or the applicable participating Lender shall not be entitled to receive any greater payment under Section 2.13 or 2.14 than the applicable participating Lender would have been entitled to receive in the absence of the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. No Participant shall be entitled to the benefits of Section 2.14 unless such Participant complies with Section 2.14(e) as if it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) The Borrower, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in paragraph (d) above.

(f) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Administrative Agent and without regard to the limitations set forth in Section 10.6(b). Each Loan Party, each Lender and the Administrative Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

10.7 Adjustments; Set-off. (a) Except to the extent that this Agreement or a court order expressly provides for payments to be allocated to a particular Lender, if any Lender (a "Benefitted Lender") shall receive any payment of all or part of the Obligations owing to it (other than in connection with an assignment made pursuant to Section 10.6), or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) In addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by applicable law, upon any Obligations becoming due and payable by the Borrower and remaining unpaid past any applicable grace period (whether at the stated maturity, by acceleration or otherwise), to apply to the payment of such Obligations, by setoff or otherwise, any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, any affiliate thereof or any of their respective branches or agencies to or for the credit or the account of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such application made by such Lender, provided that the failure to give such notice shall not affect the validity of such application.

10.8 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by email or facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

10.9 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.10 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

10.11 **GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

10.12 Submission To Jurisdiction; Waivers. Each Loan Party hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to Holdings, the Borrower or other Loan Party, as the case may be at its address set forth in Section 10.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.13 Acknowledgements. Each Loan Party hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand, and the Loan Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Loan Parties and the Lenders.

10.14 Releases of Guarantees and Liens. (a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any Collateral or guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1 or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Loans and the other obligations under the Loan Documents (other than Unmatured Surviving Obligations) shall have been paid in full and the Commitments have been terminated, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

10.15 Confidentiality. Each of the Administrative Agent and each Lender agrees to keep confidential all non-public information provided to it by any Loan Party, the Administrative Agent or any Lender pursuant to or in connection with this Agreement that is designated by the provider thereof as confidential; provided that nothing herein shall prevent the Administrative Agent or any Lender from disclosing any such information (a) to the Administrative Agent, any other Lender or any affiliate thereof, (b) subject to an agreement to comply with the provisions of this Section, to any actual or prospective Transferee or any direct or indirect counterparty to any Swap Agreement (or any professional advisor to such counterparty), (c) on a confidential basis, to its employees, directors, agents, attorneys, accountants and other professional advisors or those of any of its affiliates, (d) upon the request or demand of any Governmental Authority, (e) in response to any order of any court or other Governmental Authority or as may otherwise be required pursuant to any Requirement of Law, (f) if requested or required to do so in connection with any litigation or similar proceeding, (g) that has been publicly disclosed, (h) to the National Association of Insurance Commissioners or any similar organization or any nationally recognized rating agency that requires access to information about a Lender's investment portfolio in connection with ratings issued with respect to such Lender, or (i) in connection with the exercise of any remedy hereunder or under any other Loan Document, or (j) if agreed by the Borrower in its sole discretion, to any other Person.

Each Lender acknowledges that information furnished to it pursuant to this Agreement or the other Loan Documents may include material non-public information concerning the Borrower and its Affiliates and their related parties or their respective securities, and confirms that it has developed compliance procedures regarding the use of material non-public information and that it will handle such material non-public information in accordance with those procedures and applicable law, including Federal and state securities laws.

All information, including requests for waivers and amendments, furnished by the Borrower or the Administrative Agent pursuant to, or in the course of administering, this Agreement or the other Loan Documents will be syndicate-level information, which may contain material non-public information about the Borrower and its Affiliates and their related parties or their respective securities. Accordingly, each Lender represents to the Borrower and the Administrative Agent that it has identified in its administrative questionnaire a credit contact who may receive information that may contain material non-public information in accordance with its compliance procedures and applicable law, including Federal and state securities laws.

10.16 WAIVERS OF JURY TRIAL. **THE LOAN PARTIES, THE ADMINISTRATIVE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

10.17 USA Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower, which

information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

10.18 Intercreditor Agreement. By executing this Agreement as a Lender, or by becoming a Lender hereunder pursuant to an Assignment and Assumption, each Lender hereby agrees to the terms of the Intercreditor Agreement, acknowledges that certain of its rights hereunder shall be subject thereto, and consents to the execution thereof by the Administrative Agent on behalf of such Lender.

10.19 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 any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to Write-Down and Conversion Powers and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of Write-Down and Conversion Powers.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

LOGAN'S ROADHOUSE, INC.

By: _____
Name:
Title:

LRI HOLDINGS, INC.

By: _____
Name:
Title:

LOGAN'S ROADHOUSE OF TEXAS, INC.

By: _____
Name:
Title:

LOGAN'S ROADHOUSE OF KANSAS, INC.

By: _____
Name:
Title:

~~[~~CORTLAND CAPITAL MARKET SERVICES LLC~~]~~,
as Administrative Agent

By: _____
Name:
Title:

LENDERS:

[__]

SCHEDULE ~~2.01~~2.1

Commitments

Lender	Rollover Term Loan Commitment	Additional Term Loan Commitment
Carl Marks Strategic Investments, L.P.		
Carl Marks Strategic Opportunities Fund II, L.P.		
Marblegate Special Opportunities Master Fund, L.P.		
P Marblegate Ltd.		
FS Investment Corporation		
FS Investment Corporation II		
FS Investment Corporation III		
KEP VI, LLC		
Kelso Investment Associates VIII, L.P.		
Macsen Holdings Limited		
Muhammad S. Zaman		N/A
George Tharakan		N/A
David Graziosi		N/A
Vii Peaks Co-Optivist Income BDC II, Inc.		N/A
Mary A. Fergusan		N/A
Sierra Pacific Securities, LLC		N/A
Bruce C. Bruckmann		N/A
Bruckmann, Rosser, Sherrill & Co., Mgmt L.P.		N/A
Christian Albert Heimlich		N/A
Leo John Murphy		N/A

EXHIBIT D

Exit Financing Intercreditor Agreement

Draft 11/4/2016

INTERCREDITOR AGREEMENT[1]

Intercreditor Agreement (this "**Agreement**"), dated as of [ ], 2016, among JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, with its successors and assigns, and as more specifically defined below, the "**First Priority Representative**") for the First Priority Secured Parties (as defined below), and CORTLAND CAPITAL MARKET SERVICES LLC ("**Cortland**"), as administrative agent (in such capacity, with its successors and assigns, and as more specifically defined below, the "**Second Priority Representative**") for the Second Priority Secured Parties (as defined below), and acknowledged by Logan's Roadhouse, Inc., a Tennessee corporation (the "**Borrower**") and each of the other Loan Parties (as defined below) party hereto.

WHEREAS, the Borrower, the First Priority Representative, the other Loan Parties party thereto and certain financial institutions and other entities are parties to the First Lien Revolving Credit Agreement, dated as the date hereof, among LRI Holdings, Inc., a Delaware corporation ("**Holdings**"), the Borrower, the lenders named therein and JPMorgan Chase Bank, N.A., as administrative agent (the "**Existing First Priority Agreement**"), pursuant to which such financial institutions and other entities have agreed to make loans and extend other financial accommodations to the Borrower; and

WHEREAS, the Borrower, the Second Priority Representative, the other Loan Parties party thereto and certain financial institutions and other entities are parties to the Second Lien Credit Agreement, dated as of the date hereof, among Holdings, the Borrower, the other Loan Parties party thereto, the lenders named therein and Cortland, as administrative agent (the "**Existing Second Priority Agreement**"), pursuant to which such financial institutions and other entities have agreed to make loans to the Borrower; and

WHEREAS, the Borrower and certain other Loan Parties have granted, and the remaining Loan Parties will grant, to the First Priority Representative security interests in the Common Collateral as security for payment and performance of the First Priority Obligations; and

WHEREAS, the Borrower and certain other Loan Parties have granted, and the remaining Loan Parties will grant, to the Second Priority Representative junior security interests in the Common Collateral as security for payment and performance of the Second Priority Obligations.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants herein contained and other good and valuable consideration, the existence and sufficiency of which are expressly recognized by all of the parties hereto, the parties agree as follows:

SECTION 1. *Definitions.*

1.1. Defined Terms. The following terms, as used herein, have the following meanings:

"**Additional First Priority Agreement**" means any agreement permitted to be designated as such by the First Priority Agreement and the Second Priority Agreement.

"**Additional First Priority Debt**" has the meaning set forth in Section 9.3(b).

[1] ~~Intercreditor Agreement shall be amended to include subordination of liens in respect of the New Secured Notes to the extent they are issued pursuant to the Plan of Reorganization on the effective date thereof. Such subordination shall be on substantially similar terms as set forth herein as between the First Priority Obligations and the Second Priority Obligations.~~

"**Additional Second Priority Agreement**" means any agreement permitted to be designated as such by the First Priority Agreement and the Second Priority Agreement.

"**Additional Second Priority Debt**" has the meaning set forth in Section 9.3(b).

"**Agreement**" has the meaning set forth in the introductory paragraph hereof.

"**Bankruptcy Code**" means the United States Bankruptcy Code (11 U.S.C. §101 et seq.), as amended from time to time.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"**Borrower**" has the meaning set forth in the introductory paragraph hereof.

"**Cash Collateral**" has the meaning set forth in Section 3.7.

"**Common Collateral**" means all assets that are both First Priority Collateral and Second Priority Collateral.

"**Comparable Second Priority Security Document**" means, in relation to any Common Collateral subject to any First Priority Security Document, that Second Priority Security Document that creates a security interest in the same Common Collateral, granted by the same Loan Party, as applicable.

"**DIP Financing**" has the meaning set forth in Section 5.2.

"**Enforcement Action**" means, with respect to the First Priority Obligations or the Second Priority Obligations, the exercise of any rights and remedies with respect to any Common Collateral securing such obligations or the commencement or prosecution of enforcement of any of the rights and remedies with respect to the Common Collateral under, as applicable, the First Priority Documents or the Second Priority Documents, or applicable law, including without limitation the exercise of any rights of set-off or recoupment, and the exercise of any rights or remedies of a secured creditor under the Uniform Commercial Code of any applicable jurisdiction or under the Bankruptcy Code.

"**Enforcement Notice**" has the meaning set forth in Section 3.7.

"**Existing First Priority Agreement**" has the meaning set forth in the first WHEREAS clause of this Agreement.

"**Existing Second Priority Agreement**" has the meaning set forth in the second WHEREAS clause of this Agreement.

"**First Priority Agreement**" means the collective reference to (a) the Existing First Priority Agreement, (b) any Additional First Priority Agreement and (c) any other credit agreement, loan agreement, note agreement, promissory note, indenture or other agreement or instrument evidencing or governing the terms of any indebtedness or other financial accommodation that has been incurred to extend, increase, renew, refund, replace (whether upon or after termination or otherwise) or refinance (including by means of sales of debt securities to institutional investors) in whole or in part from time to time the indebtedness and other obligations outstanding under the Existing First Priority Agreement, any Additional First Priority Agreement or any other agreement or instrument referred to in this clause (c)

unless such agreement or instrument expressly provides that it is not intended to be and is not a First Priority Agreement hereunder (a **"Replacement First Priority Agreement"**). Any reference to the First Priority Agreement hereunder shall be deemed a reference to any First Priority Agreement then extant.

"**First Priority Collateral**" means all assets, whether now owned or hereafter acquired by the Borrower or any other Loan Party, in which a Lien is granted or purported to be granted to any First Priority Secured Party as security for any First Priority Obligation.

"**First Priority Creditors**" means each "Secured Party" as defined in the First Priority Agreement, or any Persons that are designated under the First Priority Agreement as the "First Priority Creditors" for purposes of this Agreement.

"**First Priority Documents**" means the First Priority Agreement, each First Priority Security Document and each First Priority Guarantee.

"**First Priority Guarantee**" means any guarantee by any Loan Party of any or all of the First Priority Obligations.

"First Priority Lien" means any Lien created by the First Priority Security Documents.

"**First Priority Obligations**" means (a) with respect to the Existing First Priority Agreement, all "Obligations" of each Loan Party as defined in the Existing First Priority Agreement and (b) with respect to each other First Priority Agreement, (i) all principal of and interest (including without limitation any Post-Petition Interest) and premium (if any) on all loans made or other indebtedness issued or incurred pursuant to such First Priority Agreement, (ii) all reimbursement obligations (if any) and interest thereon (including without limitation any Post-Petition Interest) with respect to any letter of credit or similar instruments issued pursuant to such First Priority Agreement, (iii) all Specified Swap Agreements, (iv) all Specified Cash Management Agreements and (v) all guarantee obligations, fees, expenses and other amounts payable from time to time pursuant to the applicable First Priority Documents, in each case whether or not allowed or allowable in an Insolvency Proceeding. To the extent any payment with respect to any First Priority Obligation (whether by or on behalf of any Loan Party, as proceeds of security, enforcement of any right of setoff or otherwise) is declared to be a fraudulent conveyance or a preference in any respect, set aside or required to be paid to a debtor in possession, any Second Priority Secured Party, receiver or similar Person, then the obligation or part thereof originally intended to be satisfied shall, for the purposes of this Agreement and the rights and obligations of the First Priority Secured Parties and the Second Priority Secured Parties hereunder, be deemed to be reinstated and outstanding as if such payment had not occurred.

"**First Priority Obligations Payment Date**" means the first date on which either (a) all of the First Priority Liens have been released in accordance with the terms of the First Priority Documents or (b) all of the First Priority Obligations (other than any contingent obligations for which no claim has been made) have been paid in full in cash, the commitments under the First Priority Documents shall have been terminated and no letters of credit shall be outstanding under the First Priority Documents.

"**First Priority Representative**" has the meaning set forth in the introductory paragraph hereof. In the case of any Replacement First Priority Agreement, the First Priority Representative shall be the Person identified as such in such Agreement.

"**First Priority Secured Parties**" means the First Priority Representative, the First Priority Creditors and any other holders of the First Priority Obligations.

"**First Priority Security Documents**" means the "Security Documents" as defined in the First Priority Agreement, and any other documents that are designated under the First Priority Agreement as "First Priority Security Documents" for purposes of this Agreement.

"**Holdings**" has the meaning set forth in the first WHEREAS clause of this Agreement.

"**Insolvency Proceeding**" means any proceeding in respect of bankruptcy, insolvency, winding up, receivership, dissolution or assignment for the benefit of creditors, in each of the foregoing events whether under the Bankruptcy Code or any similar federal, state or foreign bankruptcy, insolvency, reorganization, receivership or similar law.

"**Lien**" means any 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 any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

"**Loan Party**" means the Borrower, Holdings, and each direct or indirect subsidiary, affiliate or shareholder (or equivalent) of the Borrower or any of its affiliates that is now or hereafter becomes a party to any First Priority Document or Second Priority Document as a borrower or a guarantor thereunder. All references in this Agreement to any Loan Party shall include such Loan Party as a debtor-in-possession and any receiver or trustee for such Loan Party in any Insolvency Proceeding.

"**Person**" means any person, individual, sole proprietorship, partnership, joint venture, corporation, limited liability company, unincorporated organization, association, institution, entity, party, including any government and any political subdivision, agency or instrumentality thereof.

"**Post-Petition Interest**" means any interest or entitlement to fees or expenses or other charges that accrues after the commencement of any Insolvency Proceeding, whether or not allowed or allowable in any such Insolvency Proceeding.

"**Purchase**" has the meaning set forth in Section 3.7.

"**Purchase Notice**" has the meaning set forth in Section 3.7.

"**Purchase Price**" has the meaning set forth in Section 3.7.

"**Purchasing Parties**" has the meaning set forth in Section 3.7.

"**Real Property**" means any right, title or interest in and to real property, including any fee interest, leasehold interest, easement, or license and any other right to use or occupy real property, including any right arising by contract.

"**Recovery**" has the meaning set forth in Section 5.5.

"**Replacement First Priority Agreement**" has the meaning set forth in the definition of "First Priority Agreement."

"**Second Priority Agreement**" means the collective reference to (a) the Existing Second Priority Agreement, (b) any Additional Second Priority Agreement and (c) any other credit agreement, loan agreement, note agreement, promissory note, indenture, or other agreement or instrument evidencing or

governing the terms of any indebtedness or other financial accommodation that has been incurred to extend, increase, renew, refund, replace (whether upon or after termination or otherwise) or refinance (including by means of sales of debt securities to institutional investors) in whole or in part from time to time the indebtedness and other obligations outstanding under the Existing Second Priority Agreement, any Additional Second Priority Agreement or any other agreement or instrument referred to in this clause (c). Any reference to the Second Priority Agreement hereunder shall be deemed a reference to any Second Priority Agreement then extant.

"**Second Priority Collateral**" means all assets, whether now owned or hereafter acquired by the Borrower or any other Loan Party, in which a Lien is granted or purported to be granted to any Second Priority Secured Party as security for any Second Priority Obligation.

"**Second Priority Creditors**" means the "Lenders" as defined in the Second Priority Agreement, the Second Priority Representatives or any Persons that are designated under the Second Priority Agreement as the "Second Priority Creditors" for purposes of this Agreement.

"**Second Priority Documents**" means each Second Priority Agreement, each Second Priority Security Document and each Second Priority Guarantee.

"**Second Priority Guarantee**" means any guarantee by any Loan Party of any or all of the Second Priority Obligations.

"Second Priority Lien" means any Lien created by the Second Priority Security Documents.

"**Second Priority Obligations**" means (a) with respect to the Existing Second Priority Agreement, all "Obligations" of each Loan Party as defined in the Existing Second Priority Agreement and (b) with respect to each other Second Priority Agreement, (i) all principal of and interest (including without limitation any Post-Petition Interest) and premium (if any) on all loans made or other indebtedness issued or incurred pursuant to such Second Priority Agreement, and (ii) all guarantee obligations, fees, expenses and other amounts payable from time to time pursuant to the applicable Second Priority Documents, in each case whether or not allowed or allowable in an Insolvency Proceeding. To the extent any payment with respect to any Second Priority Obligation (whether by or on behalf of any Loan Party, as proceeds of security, enforcement of any right of setoff or otherwise) is declared to be a fraudulent conveyance or a preference in any respect, set aside or required to be paid to a debtor in possession, any First Priority Secured Party, receiver or similar Person, then the obligation or part thereof originally intended to be satisfied shall, for the purposes of this Agreement and the rights and obligations of the First Priority Secured Parties and the Second Priority Secured Parties hereunder, be deemed to be reinstated and outstanding as if such payment had not occurred.

"**Second Priority Representative**" has the meaning set forth in the introductory paragraph hereof, but shall also include any Person identified as a "Second Priority Representative" in any Second Priority Agreement other than the Existing Second Priority Agreement.

"**Second Priority Secured Parties**" means the Second Priority Representative, the Second Priority Creditors and any other holders of the Second Priority Obligations.

"**Second Priority Security Documents**" means the "Security Documents" as defined in the Second Priority Agreement and any documents that are designated under the Second Priority Agreement as "Second Priority Security Documents" for purposes of this Agreement.

"**Secured Parties**" means the First Priority Secured Parties and the Second Priority Secured Parties.

"**Specified Cash Management Agreement**": any agreement providing for treasury, depositary, purchasing card or cash management services, including in connection with any automated clearing house transfers of funds or any similar transactions between any Loan Party and any holder of First Priority Obligations (other than under the Specified Cash Management Agreement), or an affiliate thereof.

"**Specified Swap Agreement**": means any Swap Agreement in respect of interest rates, currency exchange rates or commodity prices entered into by any Loan Party and any Person that is holder of First Priority Obligations (other than under the Specified Swap Agreement) or an affiliate thereof, at the time such Swap Agreement is entered into.

"**Standstill Period**" has the meaning set forth in Section 3.2.

"**Surviving Obligations**" has the meaning set forth in Section 3.7.

"**Swap Agreement**" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its subsidiaries shall be a "Swap Agreement"; provided further that no agreement relating to the purchase of food at a fixed price entered into by the Borrower or its Affiliates shall be a "Swap Agreement".

"**Uniform Commercial Code**" shall mean the Uniform Commercial Code as in effect from time to time in the applicable jurisdiction.

1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified, in each case, to the extent not prohibited by the terms of this Agreement, (ii) any reference herein to any Person shall be construed to include such Person's successors or permitted assigns, (iii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Sections shall be construed to refer to Sections of this Agreement and (v) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 2. *Lien Priorities.*

2.1 Subordination of Liens. (a) Any and all Liens on the Common Collateral now existing or hereafter created or arising in favor of any Second Priority Secured Party securing the Second Priority Obligations, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise are expressly junior in priority, operation and effect to any and all Liens on the Common Collateral now existing or hereafter created or arising in favor of the First Priority Secured Parties securing the First Priority Obligations, notwithstanding (i) anything to the contrary contained in any agreement or filing to which any Second Priority Secured Party may now or hereafter be a party, and regardless of the time, order or method of grant, attachment, recording or perfection of any financing statements or other security interests, assignments, pledges, deeds, mortgages and other Liens, or any defect or deficiency or alleged defect or deficiency in any of the foregoing, (ii) any provision of the Uniform Commercial Code or any applicable law or any First Priority Document or Second Priority Document or any other circumstance whatsoever and (iii) the fact that any such Liens in favor of any First Priority Secured Party securing any of the First Priority Obligations are (x) subordinated to any Lien securing any obligation of any Loan Party other than the Second Priority Obligations or (y) otherwise subordinated, voided, avoided, invalidated or lapsed.

(b) No First Priority Secured Party or Second Priority Secured Party shall object to or contest, or support any other Person in contesting or objecting to, in any proceeding (including without limitation, any Insolvency Proceeding), the validity, extent, perfection, priority or enforceability of any security interest in the Common Collateral granted to the other. Notwithstanding any failure by any First Priority Secured Party or Second Priority Secured Party to perfect its security interests in the Common Collateral or any avoidance, invalidation or subordination by any third party or court of competent jurisdiction of the security interests in the Common Collateral granted to the First Priority Secured Parties or the Second Priority Secured Parties, the priority and rights as between the First Priority Secured Parties and the Second Priority Secured Parties with respect to the Common Collateral shall be as set forth herein.

2.2 Nature of First Priority Obligations. The Second Priority Representative on behalf of itself and the other Second Priority Secured Parties acknowledges that the First Priority Obligations currently represent debt that is revolving in nature and that the amount thereof that may be outstanding at any time or from time to time may be increased or reduced and subsequently reborrowed, and that the terms of the First Priority Obligations may be modified, extended or amended from time to time, and that the aggregate amount of the First Priority Obligations may be increased, replaced or refinanced, in each event, without notice to or consent by the Second Priority Secured Parties and without affecting the provisions hereof, but only so long as, except in the case of any DIP Financing, any such obligations are permitted to be incurred pursuant to the Second Priority Documents as in effect on the date of this Agreement. The lien priorities provided in Section 2.1 shall not be altered or otherwise affected by any such amendment, modification, supplement, extension, repayment, reborrowing, increase, replacement, renewal, restatement or refinancing of either the First Priority Obligations or the Second Priority Obligations, or any portion thereof.

2.3 Agreements Regarding Actions to Perfect Liens. (a) The Second Priority Representative on behalf of itself and the other Second Priority Secured Parties agrees that UCC-1 financing statements, patent, trademark or copyright filings or other filings or recordings filed or recorded by or on behalf of the Second Priority Representative with respect to the Common Collateral shall be in form satisfactory to the First Priority Representative.

(b) The Second Priority Representative agrees on behalf of itself and the other Second Priority Secured Parties that all mortgages, deeds of trust, deeds and similar instruments (collectively,

"**mortgages**") now or hereafter filed against Real Property that constitutes Common Collateral in favor of or for the benefit of the Second Priority Representative and the other Second Priority Secured Parties shall be in form satisfactory to the First Priority Representative and shall contain the following notation (or other notation to a similar effect approved by the First Priority Representative): "The lien created by this mortgage on the property described herein is junior and subordinate to the lien on such property created by any mortgage, deed of trust or similar instrument now or hereafter granted to the First Priority Representative, and its successors and assigns, in such property, in accordance with the provisions of the Intercreditor Agreement, dated as of [_____], 2016, among JPMorgan Chase Bank, N.A., as First Priority Representative, Cortland Capital Market Services LLC, as Second Priority Representative, and acknowledged by Logan's Roadhouse, Inc., a Tennessee corporation, as Borrower, and the other Loan Parties referred to therein, as amended, modified or supplemented from time to time."

(c) The First Priority Representative hereby acknowledges that, to the extent that it holds, or a third party holds on its behalf, physical possession of or "control" (as defined in the Uniform Commercial Code) over Common Collateral pursuant to the First Priority Security Documents, such possession or control is also for the benefit of and on behalf of, and the First Priority Representative or such third party holds such possession or control as bailee and agent for, the Second Priority Representative and the other Second Priority Secured Parties solely to the extent required to perfect their security interest in such Common Collateral (such bailment and agency for perfection being intended, among other things, to satisfy the requirements of Sections 8-106(d), 8-301(a)(2) and 9-313(c) of the Uniform Commercial Code). Nothing in the preceding sentence shall be construed to impose any duty on the First Priority Representative (or any third party acting on its behalf) with respect to such Common Collateral or provide the Second Priority Representative or any other Second Priority Secured Party with any rights with respect to such Common Collateral beyond those specified in this Agreement and the Second Priority Security Documents, provided that subsequent to the occurrence of the First Priority Obligations Payment Date, the First Priority Representative shall (i) deliver to the Second Priority Representative, at the Borrower's sole cost and expense, the Common Collateral in its possession or control together with any necessary endorsements to the extent required by the Second Priority Documents (and to the extent not so required, such delivery shall be made to the Borrower) or (ii) direct and deliver such Common Collateral as a court of competent jurisdiction otherwise directs, and provided, further, that the provisions of this Agreement are intended solely to govern the respective Lien priorities as between the First Priority Secured Parties and the Second Priority Secured Parties and shall not impose on the First Priority Secured Parties any obligations in respect of the disposition of any Common Collateral (or any proceeds thereof) that would conflict with prior perfected Liens or any claims thereon in favor of any other Person that is not a Secured Party.

2.4 No New Liens. So long as the First Priority Obligations Payment Date has not occurred, the parties hereto agree that (a) there shall be no Lien, and no Loan Party shall have any right to create any Lien, on any assets of any Loan Party securing any Second Priority Obligation if these same assets are not subject to, and do not become subject to, a Lien securing the First Priority Obligations and (b) if any Second Priority Secured Party shall acquire or hold any Lien on any assets of any Loan Party securing any Second Priority Obligation which assets are not also subject to the first-priority Lien of the First Priority Representative under the First Priority Documents, then the Second Priority Representative, upon demand by the First Priority Representative, will without the need for any further consent of any other Second Priority Secured Party, notwithstanding anything to the contrary in any other Second Priority Document either (i) release such Lien or (ii) assign it to the First Priority Representative as security for the First Priority Obligations (in which case the Second Priority Representative may retain a junior Lien on such assets subject to the terms hereof). To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the First Priority Secured Parties, the Second Priority Representative and the other Second Priority Secured

Parties agree that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this Section 2.4 shall be subject to Section 4.1.

2.5 Notice of First Priority Obligations Payment Date. The First Priority Representative shall deliver written notice to the Second Priority Representative stating that the First Priority Obligations Payment Date has occurred promptly after the occurrence of such date.

SECTION 3. *Enforcement Rights.*

3.1 Exclusive Enforcement. Until the First Priority Obligations Payment Date has occurred, whether or not an Insolvency Proceeding has been commenced by or against any Loan Party, the First Priority Secured Parties shall have the exclusive right to take and continue any Enforcement Action, without any consultation with or consent of any Second Priority Secured Party, but subject to the provisos set forth in Sections 3.2 and 5.1. Upon the occurrence and during the continuance of a default or an event of default under the First Priority Documents, the First Priority Representative and the other First Priority Secured Parties may take and continue any Enforcement Action with respect to the First Priority Obligations in such order and manner as they may determine in their sole discretion.

3.2 Standstill and Waivers. The Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, agrees that, until the First Priority Obligations Payment Date has occurred, subject to the proviso set forth in Section 5.1:

(a) they will not take or cause to be taken any Enforcement Action;

(b) they will not take or cause to be taken any action, the purpose or effect of which is to make any Lien in respect of any Second Priority Obligation pari passu with or senior to, or to give any Second Priority Secured Party any preference or priority relative to, the Liens with respect to the First Priority Obligations or the First Priority Secured Parties with respect to any of the Common Collateral;

(c) they will not contest, oppose, object to, interfere with, hinder or delay, in any manner, whether by judicial proceedings (including without limitation the filing of an Insolvency Proceeding) or otherwise, any foreclosure, sale, lease, exchange, transfer or other disposition of the Common Collateral by any First Priority Secured Party or any other Enforcement Action taken (or any forbearance from taking any Enforcement Action) by or on behalf of any First Priority Secured Party;

(d) they have no right to (i) direct either the First Priority Representative or any other First Priority Secured Party to exercise any right, remedy or power with respect to the Common Collateral or pursuant to the First Priority Security Documents or (ii) consent or object to the exercise by the First Priority Representative or any other First Priority Secured Party of any right, remedy or power with respect to the Common Collateral or pursuant to the First Priority Security Documents or to the timing or manner in which any such right is exercised or not exercised (or, to the extent they may have any such right described in this clause (d), whether as a junior lien creditor or otherwise, they hereby irrevocably waive such right);

(e) they will not institute any suit or other proceeding or assert in any suit, Insolvency Proceeding or other proceeding any claim against any First Priority Secured Party seeking damages from or other relief by way of specific performance, injunction or otherwise, with respect to, and no First Priority Secured Party shall be liable for, any action taken or omitted to

be taken by any First Priority Secured Party with respect to the Common Collateral or pursuant to the First Priority Documents; and

(f) they will not seek, and hereby waive any right, to have the Common Collateral or any part thereof marshaled upon any foreclosure or other disposition of the Common Collateral.

provided that, notwithstanding the foregoing, any Second Priority Secured Party may exercise its rights and remedies in respect of the Common Collateral under the Second Priority Security Documents or applicable law after the passage of a period of 180 days (the "**Standstill Period**") from the date of delivery of a notice in writing by the Second Priority Representative to the First Priority Representative of its intention to exercise such rights and remedies, which notice may only be delivered following the occurrence of and during the continuation of an "Event of Default" under and as defined in the Second Priority Agreement; provided, further, however, that, notwithstanding the foregoing, in no event shall any Second Priority Secured Party exercise or continue to exercise any such rights or remedies if, notwithstanding the expiration of the Standstill Period, (i) any First Priority Secured Party shall have commenced and be diligently pursuing the exercise of any of its rights and remedies with respect to any of the Common Collateral (prompt notice of such exercise to be given to the Second Priority Representative) or (ii) an Insolvency Proceeding in respect of any Loan Party shall have been commenced; and provided, further, that in any Insolvency Proceeding commenced by or against any Loan Party, the Second Priority Representative and the Second Priority Secured Parties may take any action expressly permitted by Section 5.

3.3 Judgment Creditors. In the event that any Second Priority Secured Party becomes a judgment lien creditor as a result of its enforcement of its rights as an unsecured creditor to the extent permitted by applicable law, any such judgment lien on the Common Collateral shall be subject to the terms of this Agreement for all purposes (including in relation to the First Priority Liens and the First Priority Obligations) to the same extent as other Liens on the Common Collateral securing the Second Priority Obligations are subject to the terms of this Agreement.

3.4 Cooperation. The Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, agrees that each of them shall take such actions as the First Priority Representative shall reasonably request in connection with the exercise by the First Priority Secured Parties of their rights set forth herein.

3.5 No Additional Rights For the Loan Parties Hereunder. Except as provided in Section 3.6, if any First Priority Secured Party or Second Priority Secured Party shall enforce its rights or remedies in violation of the terms of this Agreement, no Loan Party shall be entitled to use such violation as a defense to any action by any First Priority Secured Party or Second Priority Secured Party, nor to assert such violation as a counterclaim or basis for set off or recoupment against any First Priority Secured Party or Second Priority Secured Party.

3.6 Actions Upon Breach. (a) If any Second Priority Secured Party, contrary to this Agreement, commences or participates in any action or proceeding against the Borrower or any Loan Party or the Common Collateral, such Loan Party, with the prior written consent of the First Priority Secured Representative, may interpose as a defense or dilatory plea the making of this Agreement, and any First Priority Secured Party may intervene and interpose such defense or plea in its or their name.

(b) Should any Second Priority Secured Party, contrary to this Agreement, in any way take, attempt to or threaten to take any action with respect to the Common Collateral (including, without limitation, any attempt to realize upon or enforce any remedy with respect to this Agreement), or fail to

take any action required by this Agreement, any First Priority Secured Party (in its own name) may obtain relief against such Second Priority Secured Party by injunction, specific performance and/or other appropriate equitable relief, it being understood and agreed by the Second Priority Representative on behalf of each Second Priority Secured Party that (i) the First Priority Secured Parties' damages from its actions may at that time be difficult to ascertain and may be irreparable, and (ii) each Second Priority Secured Party waives any defense that the First Priority Secured Parties cannot demonstrate damage and/or be made whole by the awarding of damages.

3.7 Option to Purchase. (a) The First Priority Representative agrees that it will give the Second Priority Representative written notice (the "**Enforcement Notice**") within five Business Days after commencing any Enforcement Action (which notice shall be effective for all Enforcement Actions taken after the date of such notice so long as the First Priority Representative is diligently pursuing in good faith the exercise of its default or enforcement rights or remedies against, or diligently attempting in good faith to vacate any stay of enforcement rights of its senior Liens on a material portion of the Common Collateral, including, without limitation, all Enforcement Actions identified in such notice). Any Second Priority Secured Party shall have the option upon receipt of the Enforcement Notice by the Second Priority Representative, by irrevocable written notice (the "**Purchase Notice**") delivered by the Second Priority Representative to the First Priority Representative no later than five Business Days after receipt by the Second Priority Representative of the Enforcement Notice, to purchase all (but not less than all) of the First Priority Obligations from the First Priority Secured Parties. If the Second Priority Representative so delivers the Purchase Notice, the First Priority Representative shall terminate any existing Enforcement Actions and shall not take any further Enforcement Actions, provided, that the Purchase (as defined below) shall have been consummated on the date specified in the Purchase Notice in accordance with this Section 3.7.

(b) On the date specified by the Second Priority Representative in the Purchase Notice (which shall be a Business Day not less than five Business Days, nor more than ten Business Days, after receipt by the First Priority Representative of the Purchase Notice), the First Priority Secured Parties shall, subject to any required approval of any court or other governmental authority then in effect, sell to the Second Priority Secured Parties electing to purchase pursuant to Section 3.7(a) (the "**Purchasing Parties**"), and the Purchasing Parties shall purchase (the "**Purchase**") from the First Priority Secured Parties, the First Priority Obligations; provided, that the First Priority Obligations purchased shall not include any rights of First Priority Secured Parties with respect to indemnification and other obligations of the Loan Parties under the First Priority Documents that are expressly stated to survive the termination of the First Priority Documents (the "**Surviving Obligations**").

(c) Without limiting the obligations of the Loan Parties under the First Priority Documents to the First Priority Secured Parties with respect to the Surviving Obligations (which shall not be transferred in connection with the Purchase), on the date of the Purchase, the Purchasing Parties shall (i) pay to the First Priority Secured Parties as the purchase price (the "**Purchase Price**") therefor the full amount of all First Priority Obligations then outstanding and unpaid (including principal, accrued and unpaid interest at the contract rate, fees, breakage costs, attorneys' fees and expenses, and, in the case of any Specified Swap Agreements, the amount that would be payable by the relevant Loan Party thereunder if it were to terminate such Specified Swap Agreements on the date of the Purchase or, if not terminated, an amount determined by the relevant First Priority Secured Party to be necessary to collateralize its credit risk arising out of such Specified Swap Agreements), (ii) furnish cash collateral (the "**Cash Collateral**") to the First Priority Secured Parties in such amounts as the relevant First Priority Secured Parties determine is reasonably necessary to secure such First Priority Secured Parties in connection with any outstanding letters of credit (not to exceed 103% of the aggregate undrawn face amount of such letters of credit), (iii) agree to reimburse the First Priority Secured Parties for any loss, cost, damage or expense (including

attorneys' fees and expenses) in connection with any fees, costs or expenses related to any checks or other payments provisionally credited to the First Priority Obligations or as to which the First Priority Secured Parties have not yet received final payment and (iv) agree, after written request from the First Priority Representative, to reimburse the First Priority Secured Parties in respect of indemnification obligations of the Loan Parties under the First Priority Documents as to matters or circumstances known to the Purchasing Parties at the time of the Purchase which could reasonably be expected to result in any loss, cost, damage or expense to any of the First Priority Secured Parties, provided that, in no event shall any Purchasing Party have any liability for such amounts in excess of proceeds of Common Collateral received by the Purchasing Parties.

(d) The Purchase Price and Cash Collateral shall be remitted by wire transfer in immediately available funds to such account of the First Priority Representative as it shall designate to the Purchasing Parties. The First Priority Representative shall, promptly following its receipt thereof, distribute the amounts received by it in respect of the Purchase Price to the First Priority Secured Parties in accordance with the First Priority Agreement. Interest shall be calculated to but excluding the day on which the Purchase occurs if the amounts so paid by the Purchasing Parties to the account designated by the First Priority Representative are received in such account prior to 12:00 noon, New York City time, and interest shall be calculated to and including such day if the amounts so paid by the Purchasing Parties to the account designated by the First Priority Representative are received in such account later than 12:00 noon, New York City time.

(e) The Purchase shall be made without representation or warranty of any kind by the First Priority Secured Parties as to the First Priority Obligations, the Common Collateral or otherwise and without recourse to the First Priority Secured Parties, except that the First Priority Secured Parties shall represent and warrant: (i) the amount of the First Priority Obligations being purchased, (ii) that the First Priority Secured Parties own the First Priority Obligations free and clear of any Liens and (iii) that the First Priority Secured Parties have the right to assign the First Priority Obligations and the assignment is duly authorized.

(f) For the avoidance of doubt, the parties hereto hereby acknowledge and agree that in no event shall the Second Priority Representative (i) be deemed to be a Purchasing Party for purposes of this Section 3.7, (ii) be subject to or liable for any obligations of a Purchasing Party pursuant to this Section 3.7 or (iii) incur any liability to any First Priority Secured Party or any other Person in connection with any Purchase pursuant to this Section 3.7.

SECTION 4. *Application of Proceeds of Common Collateral; Dispositions and Releases of Common Collateral; Inspection and Insurance.*

4.1 Application of Proceeds; Turnover Provisions. All proceeds of Common Collateral (including without limitation any interest earned thereon) resulting from the sale, collection or other disposition of Common Collateral in connection with an Enforcement Action, or any other distribution on account of the Common Collateral (other than any mandatory prepayments in accordance with the terms of both the Existing First Priority Agreement and the Existing Second Priority Agreement), in all such cases whether or not pursuant to an Insolvency Proceeding, shall be distributed as follows: first to the First Priority Representative for application to the First Priority Obligations in accordance with the terms of the First Priority Documents, until the First Priority Obligations Payment Date has occurred and thereafter, to the Second Priority Representative for application in accordance with the Second Priority Documents. Until the occurrence of the First Priority Obligations Payment Date, any Common Collateral, including without limitation any such Common Collateral constituting proceeds, or any distributions on account of the Common Collateral that may be received by any Second Priority Secured

Party in violation of this Agreement shall be segregated and held in trust and promptly paid over to the First Priority Representative, for the benefit of the First Priority Secured Parties, in the same form as received, with any necessary endorsements, and each Second Priority Secured Party hereby authorizes the First Priority Representative to make any such endorsements as agent for the Second Priority Representative (which authorization, being coupled with an interest, is irrevocable).

4.2 Releases of Second Priority Lien. (a) Upon any release, sale or disposition of Common Collateral permitted pursuant to the terms of the First Priority Documents that results in the release of the First Priority Lien on any Common Collateral (excluding (i) any sale or other disposition that is expressly prohibited by the Second Priority Agreement as in effect on the date hereof unless such sale or disposition is consummated in connection with an Enforcement Action or consummated after the institution of any Insolvency Proceeding and (ii) the release of all First Priority Liens in connection with the payment in full of all First Priority Obligations), the Second Priority Lien on such Common Collateral (excluding any portion of the proceeds of such Common Collateral remaining after the First Priority Obligations Payment Date occurs) shall be automatically and unconditionally released with no further consent or action of any Person.

(b) The Second Priority Representative shall promptly execute and deliver such release documents and instruments at the expense of the Borrower and shall take such further actions as the First Priority Representative shall request to evidence any release of the Second Priority Lien described in paragraph (a). The Second Priority Representative hereby appoints the First Priority Representative and any officer or duly authorized person of the First Priority Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power of attorney in the place and stead of the Second Priority Representative and in the name of the Second Priority Representative or in the First Priority Representative's own name, from time to time, in the First Priority Representative's sole discretion, for the purposes of carrying out the terms of this Section 4.2, to take any and all appropriate action and to execute and deliver any and all documents and instruments as may be necessary or desirable to accomplish the purposes of this Section 4.2, including, without limitation, any financing statements, endorsements, assignments, releases or other documents or instruments of transfer (which appointment, being coupled with an interest, is irrevocable).

4.3 Inspection Rights and Insurance. (a) Any First Priority Secured Party and its representatives may at any time inspect, repossess, remove and otherwise deal with the Common Collateral in accordance with the terms of the First Priority Agreements, and the First Priority Representative may advertise and conduct public auctions or private sales of the Common Collateral in accordance with the terms of the First Priority Agreements, in each case without notice to, the involvement of or interference by any Second Priority Secured Party or liability to any Second Priority Secured Party.

(b) Proceeds of Common Collateral include insurance proceeds in respect of such Common Collateral and therefore the lien priorities provided in Section 2.1 shall govern the ultimate disposition of casualty insurance proceeds. If the First Priority Representative and Second Priority Representative are to be named as loss payees with respect to insurance policies relating to Common Collateral, pursuant to the terms of the First Priority Agreements and the Second Priority Agreements, as applicable, the First Priority Representative will be a loss payee until the First Priority Obligations Payment Date and thereafter the Second Priority Representative will be a loss payee until the Second Priority Obligations are paid in full. Until the First Priority Obligations Payment Date has occurred, the First Priority Representative shall have the sole and exclusive right, as against the Second Priority Representative, to adjust or settle any insurance claims in the event of any covered loss, theft or destruction of Common Collateral to the extent provided for, and in accordance with, the First Priority Agreements. All proceeds

of such insurance shall be remitted to the First Priority Representative or the Second Priority Representative, as the case may be, and each of the Second Priority Representative and First Priority Representative shall cooperate (if necessary) in a reasonable manner in effecting the payment of insurance proceeds in accordance with Section 4.1.

SECTION 5. *Insolvency Proceedings.*

5.1 Filing of Motions. Until the First Priority Obligations Payment Date has occurred, the Second Priority Representative agrees on behalf of itself and the other Second Priority Secured Parties that no Second Priority Secured Party shall, in or in connection with any Insolvency Proceeding, file any pleadings or motions, take any position at any hearing or proceeding of any nature, or otherwise take any action whatsoever, in each case that (a) violates, or is prohibited by, this Section 5 (or, in the absence of an Insolvency Proceeding, otherwise would violate or be prohibited by this Agreement), (b) asserts any right, benefit or privilege that arises in favor of the Second Priority Secured Parties, in whole or in part, as a result of their interest in the Common Collateral or in the Second Priority Lien (unless the assertion of such right is expressly permitted by this Agreement) or (c) challenges the validity, priority, enforceability or voidability of any Liens or claims held by the First Priority Representative or any other First Priority Secured Party with respect to the Common Collateral, or the extent to which the First Priority Obligations constitute secured claims or the value thereof under Section 506(a) of the Bankruptcy Code or otherwise; provided that the Second Priority Representative may (i) file a proof of claim in an Insolvency Proceeding and (ii) file any necessary responsive or defensive pleadings in opposition to any motion or other pleadings made by any Person objecting to or otherwise seeking the disallowance of any claims of the Second Priority Secured Parties on the Common Collateral, subject to the limitations contained in this Agreement and only if consistent with the terms and the limitations on the Second Priority Representative imposed hereby.

5.2 Financing Matters. If any Loan Party becomes subject to any Insolvency Proceeding at any time prior to the First Priority Obligations Payment Date, and if the First Priority Representative or the other First Priority Secured Parties desire to consent (or not object) to the use of cash collateral under the Bankruptcy Code or to provide financing to any Loan Party under the Bankruptcy Code or to consent (or not object) to the provision of such financing to any Loan Party by any third party (any such financing, "**DIP Financing**"), then the Second Priority Representative agrees, on behalf of itself and the other Second Priority Secured Parties, that each Second Priority Secured Party (a) will be deemed to have consented to, will raise no objection to and will not support any other Person objecting to the use of such cash collateral or to such DIP Financing, (b) will not request or accept adequate protection or any other relief in connection with the use of such cash collateral or such DIP Financing except as set forth in Section 5.4 below, (c) will subordinate (and will be deemed hereunder to have subordinated) the Second Priority Liens on any Common Collateral (i) to such DIP Financing on the same terms as the First Priority Liens are subordinated thereto (and such subordination will not alter in any manner the terms of this Agreement), (ii) to any adequate protection provided to the First Priority Secured Parties and (iii) to any "carve-out" agreed to by the First Priority Representative or the other First Priority Secured Parties, and (d) agrees that notice received two calendar days prior to the entry of an order approving such usage of cash collateral or approving such financing shall be adequate notice so long as (A) the Second Priority Representative retains its Lien on the Common Collateral to secure the Second Priority Obligations (in each case, including proceeds thereof arising after the commencement of the case under the Bankruptcy Code) and (B) all Liens on Common Collateral securing any such DIP Financing shall be senior to or on a parity with the Liens of the First Priority Representative and the First Priority Creditors on Common Collateral securing the First Priority Obligations. No Second Priority Secured Party shall propose any financing to any Loan Party or support any such financing to any Loan Party by any third party in any

Insolvency Proceeding of any Loan Party unless such financing is secured by Liens that are junior to the Liens securing the First Priority Obligations.

5.3 Relief From the Automatic Stay. Until the First Priority Obligations Payment Date has occurred, the Second Priority Representative agrees, on behalf of itself and the other Second Priority Secured Parties, that none of them will seek relief from the automatic stay or from any other stay in any Insolvency Proceeding or take any action in derogation thereof, in each case in respect of any Common Collateral, without the prior written consent of the First Priority Representative.

5.4 Adequate Protection. The Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, agrees that, prior to the First Priority Obligations Payment Date, none of them shall object, contest, or support any other Person objecting to or contesting, (a) any request by the First Priority Representative or the other First Priority Secured Parties for adequate protection of its interest in the Common Collateral or any adequate protection provided to the First Priority Representative or the other First Priority Secured Parties, (b) any objection by the First Priority Representative or any other First Priority Secured Parties to any motion, relief, action or proceeding based on a claim of a lack of adequate protection in the Common Collateral or (c) the payment of interest, fees, expenses or other amounts to the First Priority Representative or any other First Priority Secured Party under Section 506(b) or 506(c) of the Bankruptcy Code or otherwise. The Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, further agrees that, prior to the First Priority Obligations Payment Date, none of them shall assert or enforce any claim under Section 506(b) or 506(c) of the Bankruptcy Code or otherwise that is senior to or on a parity with the First Priority Liens for costs or expenses of preserving or disposing of any Common Collateral. Notwithstanding anything to the contrary set forth in this Section and in Section 5.2(c)(ii), but subject to all other provisions of this Agreement (including, without limitation, Section 5.2(c)(i) and Section 5.3), in any Insolvency Proceeding, (i) if the First Priority Secured Parties (or any subset thereof) are granted adequate protection consisting of additional collateral (with replacement Liens on such additional collateral) and superpriority claims in connection with any DIP Financing or use of cash collateral with respect to the Common Collateral, and the First Priority Secured Parties do not object to the adequate protection being provided to them, then in connection with any such DIP Financing or use of cash collateral the Second Priority Representative, on behalf of itself and any of the Second Priority Secured Parties, may, as adequate protection of their interests in the Common Collateral, seek or accept (and the First Priority Representative and the First Priority Secured Parties shall not object to) adequate protection consisting solely of (x) a replacement Lien on the same additional collateral, subordinated to the Liens securing the First Priority Obligations and such DIP Financing on the same basis as the other Second Priority Liens on the Common Collateral are so subordinated to the First Priority Obligations under this Agreement and (y) superpriority claims junior in all respects to the superpriority claims granted to the First Priority Secured Parties, provided, however, that the Second Priority Representative shall have irrevocably agreed, pursuant to Section 1129(a)(9) of the Bankruptcy Code, on behalf of itself and the Second Priority Secured Parties, in any stipulation and/or order granting such adequate protection, that such junior superpriority claims may be paid under any plan of reorganization in any combination of cash, debt, equity or other property having a value on the effective date of such plan equal to the allowed amount of such claims and (ii) in the event the Second Priority Representative, on behalf of itself and the Second Priority Secured Parties, seeks or accepts adequate protection in accordance with clause (i) above and such adequate protection is granted in the form of additional collateral, then the Second Priority Representative, on behalf of itself or any of the Second Priority Secured Parties, agrees that the First Priority Representative shall also be granted a senior Lien on such additional collateral as security for the First Priority Obligations and any such DIP Financing and that any Lien on such additional collateral securing the Second Priority Obligations shall be subordinated to the Liens on such collateral securing the First Priority Obligations and any such DIP Financing (and all Obligations relating thereto) and any

other Liens granted to the First Priority Secured Parties as adequate protection, with such subordination to be on the same terms that the other Liens securing the Second Priority Obligations are subordinated to such First Priority Obligations under this Agreement. The Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, agrees that except as expressly set forth in this Section none of them shall seek or accept adequate protection with respect to their interests in the Common Collateral without the prior written consent of the First Priority Representative.

5.5 Avoidance Issues. If any First Priority Secured Party is required in any Insolvency Proceeding or otherwise to disgorge, turn over or otherwise pay to the estate of any Loan Party any amount (a "**Recovery**"), whether received as proceeds of security, enforcement of any right of set-off or otherwise, because such amount was avoided or ordered to be paid or disgorged for any reason, including without limitation because it was found to be a fraudulent or preferential transfer, then the First Priority Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding as if such payment had not occurred and the First Priority Obligations Payment Date shall be deemed not to have occurred. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto. The Second Priority Representative, on behalf of itself and each of the Second Priority Secured Parties, agrees that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this Agreement, whether by preference or otherwise, it being understood and agreed that the benefit of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Agreement.

5.6 Asset Dispositions. In an Insolvency Proceeding or otherwise, neither the Second Priority Representative nor any other Second Priority Secured Party shall oppose any sale or disposition of any Common Collateral that is supported by the First Priority Secured Parties, and the Second Priority Representative and each other Second Priority Secured Party will be deemed to have consented under Section 363 of the Bankruptcy Code (and otherwise) to any sale supported by the First Priority Secured Parties and to have released their Liens on such assets. In connection with the foregoing, the Second Priority Representative and the other Second Priority Secured Parties may not include a "credit bid" in respect of the Second Lien Obligations unless the cash proceeds of such bid are otherwise sufficient to cause the occurrence of the First Priority Obligations Payment Date.

5.7 Separate Grants of Security and Separate Classification. Each Secured Party acknowledges and agrees that (a) the grants of Liens pursuant to the First Priority Security Documents and the Second Priority Security Documents constitute two separate and distinct grants of Liens and (b) because of, among other things, their differing rights in the Common Collateral, the First Priority Obligations and the Second Priority Obligations are fundamentally different from each other and must be separately classified in any plan of reorganization proposed or adopted in an Insolvency Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the First Priority Secured Parties and Second Priority Secured Parties in respect of the Common Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then the Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, hereby acknowledges and agrees that all distributions shall be made as if there were separate classes of senior and junior secured claims against the Loan Parties in respect of the Common Collateral, with the effect being that, to the extent that the aggregate value of the Common Collateral is sufficient (for this purpose ignoring all claims held by the Second Priority Secured Parties), the First Priority Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of Post-Petition Interest before any distribution is made in respect of the claims held by the Second Priority Secured Parties. The

Second Priority Representative, on behalf of itself and the other Second Priority Secured Parties, hereby acknowledges and agrees to turn over to the First Priority Representative amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of the preceding sentence, even if such turnover has the effect of reducing the claim or recovery of the Second Priority Secured Parties.

5.8 No Waivers of Rights of First Priority Secured Parties. Nothing contained herein shall prohibit or in any way limit the First Priority Representative or any other First Priority Secured Party from objecting in any Insolvency Proceeding or otherwise to any action taken by any Second Priority Secured Party not expressly permitted hereunder, including the seeking by any Second Priority Secured Party of adequate protection with respect to its interests in the Common Collateral (except as provided in Section 5.4).

5.9 Other Matters.

(a) To the extent that the Second Priority Representative or any Second Priority Secured Party has or acquires rights under Section 363 or Section 364 of the Bankruptcy Code with respect to any of the Common Collateral, the Second Priority Representative agrees, on behalf of itself and the other Second Priority Secured Parties not to assert any of such rights without the prior written consent of the First Priority Representative unless expressly permitted to do so hereunder.

(b) If, in any Insolvency Proceeding of any Loan Party, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a plan of reorganization, arrangement, compromise or liquidation or similar dispositive restructuring plan, both on account of First Lien Obligations and on account of Second Lien Obligations, then, to the extent the debt obligations distributed on account of the First Lien Obligations and on account of the Second Lien Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

(c) No Second Priority Secured Party shall propose or support any plan of reorganization or arrangement in any Insolvency Proceeding of any Loan Party which is inconsistent with the terms of this Agreement.

5.10 Effectiveness in Insolvency Proceedings. This Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency Proceeding.

SECTION 6. *Security Documents.*

(a) Each Loan Party and the Second Priority Representative, on behalf of itself and the Second Priority Secured Parties, agrees that it shall not at any time execute or deliver any amendment or other modification to any of the Second Priority Documents inconsistent with or in violation of this Agreement.

(b) Each Loan Party and the First Priority Representative, on behalf of itself and the First Priority Secured Parties, agrees that it shall not at any time execute or deliver any amendment or other modification to any of the First Priority Documents inconsistent with or in violation of this Agreement.

(c) In the event the First Priority Representative enters into any amendment, waiver or consent in respect of any of the First Priority Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any First Priority Security Document or

changing in any manner the rights of any parties thereunder, in each case solely with respect to any Common Collateral, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable Second Priority Security Document without the consent of or action by any Second Priority Secured Party (with all such amendments, waivers and modifications subject to the terms hereof); provided that (other than with respect to amendments, modifications or waivers that secure additional extensions of credit and add additional secured creditors and do not violate the express provisions of the Second Priority Agreements), (i) no such amendment, waiver or consent shall have the effect of removing assets subject to the Lien of any Second Priority Security Document, except to the extent that a release of such Lien is permitted by Section 4.2, (ii) any such amendment, waiver or consent that materially and adversely affects the rights of the Second Priority Secured Parties and does not affect the First Priority Secured Parties in a like or similar manner shall not apply to the Second Priority Security Documents without the consent of the Second Priority Representative, (iii) no such amendment, waiver or consent with respect to any provision applicable to the administrative agent or the collateral agent under the Second Priority Documents shall be made without the prior written consent of such administrative agent or collateral agent and (iv) notice of such amendment, waiver or consent shall be given to the Second Priority Representative no later than 30 days after its effectiveness, provided that the failure to give such notice shall not affect the effectiveness and validity thereof.

(d) The First Priority Obligations and the Second Priority Obligations may be refinanced or replaced, in whole or in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the refinancing transaction under any First Priority Agreement or any Second Priority Agreement) of any First Priority Secured Party or any Second Priority Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof; provided, however, that the holders of any such refinancing or replacement indebtedness (or an authorized agent or trustee on their behalf) bind themselves in writing to the terms of this Agreement pursuant to such documents or agreements (including amendments or supplements to this Agreement) as the First Priority Representative or the Second Priority Representative, as the case may be, shall reasonably request and in form and substance reasonably acceptable to the First Priority Representative or the Second Priority Representative, as the case may be; provided that such documents or agreements shall comply with Section 6(a) and Section 6(b).

(e) If at any time in connection with or after the discharge of all First Priority Obligations, the Borrower enters into any replacement First Priority Agreement secured by all or a portion of the First Priority Collateral on a first-priority basis, then such prior discharge of First Priority Obligations shall automatically be deemed not to have occurred for the purposes of this Agreement, and the obligations under such replacement First Priority Agreement shall automatically be treated as First Priority Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of the First Priority Collateral (or such portion thereof) set forth therein. The termination of the Existing First Priority Agreement in connection with any such replacement shall not be deemed to be the First Priority Obligations Payment Date.

(f) In connection with any refinancing or replacement contemplated by Section 6(d) or 6(e), this Agreement may be amended at the request and sole expense of the Borrower, and without the consent of the First Priority Representative, the First Priority Secured Parties, or the Second Priority Representative or the Second Priority Secured Parties (a) to add parties (or any authorized agent or trustee therefor) providing any such refinancing or replacement indebtedness, (b) to establish that Liens on any First Priority Collateral securing such refinancing or replacement indebtedness shall have the same priority (or junior priority) as the Liens on any First Priority Collateral securing the indebtedness being refinanced or replaced and (c) to establish that Liens on any Second Priority Collateral securing such refinancing or replacement indebtedness shall have the same priority as the Liens on any Second Priority Collateral

securing the indebtedness being refinanced or replaced, all on the terms provided for immediately prior to such refinancing or replacement.

(g) [The First Priority Documents may be amended, restated, amended and restated, waived, supplemented or otherwise modified in accordance with their terms, in each case without the consent of or notice to the Second Priority Representative or any other Second Priority Secured Party, so long as such modifications could not be reasonably expected to have a Material Adverse Effect (as defined in the First Priority Document) or adversely affect the interests of the Second Priority Representative or the Second Priority Secured Parties.]; provided, however, that without the consent of the requisite Second Priority Secured Parties, the First Priority Creditors shall not amend, restate, waive, supplement or otherwise modify any of the First Priority Documents to: (i) increase the commitments thereunder (except as expressly contemplated under the First Priority Documents and the Second Priority Documents as of the date hereof), (ii) increase the interest rate (including by increasing the "Applicable Margin" (as defined in the First Priority Documents) or any interest rate floors, original issue discount, or up-front fees) on the First Priority Obligations to an amount greater than 3.00% per annum above those set forth in the First Priority Documents as of the date hereof (excluding (w) fluctuations in underlying rate indices, (x) increases resulting from the passage of time as set forth in the First Priority Documents as of the date hereof, and (y) the accrual of interest at the default rate), (iii) extend the final maturity of the First Priority Agreement or any permitted refinancing thereof beyond the scheduled maturity of the Second Priority Agreement or any permitted refinancing thereof, (iv) directly prohibit or restrict the payment of the principal of, interest on, or other amounts payable with respect to the Second Priority Obligations in a manner that is more restrictive (taken as a whole) than the prohibitions contained in the First Priority Agreement as of the date hereof, (v) make more restrictive in any material respect to any Loan Party any covenant or event of default under the First Priority Documents (except to the extent necessary to conform to permitted changes made to the Second Priority Documents, excluding changes related to the first priority status of the First Lien Obligations and subject to the preservation of cushions (if any) on financial covenant levels and dollar amounts consistent with those contained in the First Lien Documents in effect prior to such addition or modification) or (vi) contravene the provisions of this Agreement.

(h) [The Second Priority Documents may be amended, restated, amended and restated, waived, supplemented or otherwise modified in accordance with their terms, in each case without the consent of or notice to the First Priority Representative or any other First Priority Secured Party, so long as such modifications could not be reasonably expected to have a Material Adverse Effect; provided, however, that without the consent of the requisite First Priority Secured Parties, the Second Priority Secured Parties shall not amend, restate, waive, supplement or otherwise modify any of the Second Priority Documents to: (i) increase the principal amount thereof (except as expressly contemplated under the Second Priority Documents as of the date hereof) or require any amortization or make-whole or other prepayment premium in respect thereof, (ii) require payment of interest in cash or increase the interest rate (including by increasing the "Applicable Margin" (as defined in the Second Priority Documents) or adversely affect the interests of the First Priority Representative or the First Priority Secured Parties.]any interest rate floors, original issue discount, or up-front fees) on the Second Priority Obligations to an amount greater than 3.00% per annum above those set forth in the Second Priority Documents as of the date hereof (excluding (w) fluctuations in underlying rate indices, and (x) the accrual of interest at the default rate), (iii) advance the dates upon which payments of principal or interest on the Second Priority Obligations are due, including without limitation, the final maturity date thereof, or increase the amount of the scheduled amortization (if any) of any portion of the Second Priority Obligations, (iv) change any default or Event of Default thereunder in a manner adverse to the loan parties thereunder (other than to eliminate any such Event of Default or increase any grace period related thereto or otherwise make such Event of Default or condition less restrictive or burdensome on the Borrower) unless a similar change is

made under the First Priority Documents, (v) directly prohibit or restrict the payment of the principal of, interest on, or other amounts payable with respect to the First Priority Obligations in a manner that is more restrictive (taken as a whole) than the prohibitions contained in the Second Priority Agreement as of the date hereof or (vi) contravene the provisions of this Agreement.

SECTION 7. *Reliance; Waivers; etc.*

7.1 Reliance. The First Priority Documents are deemed to have been executed and delivered, and all extensions of credit thereunder are deemed to have been made or incurred, in reliance upon this Agreement. The Second Priority Representative, on behalf of itself and the Second Priority Secured Parties, expressly waives all notice of the acceptance of and reliance on this Agreement by the First Priority Representative and the First Priority Secured Parties. The Second Priority Documents are deemed to have been executed and delivered and all extensions of credit thereunder are deemed to have been made or incurred, in reliance upon this Agreement. The First Priority Representative, on behalf of itself and the First Priority Secured Parties, expressly waives all notices of the acceptance of and reliance on this Agreement by the Second Priority Representative and the Second Priority Secured Parties.

7.2 No Warranties or Liability. The Second Priority Representative and the First Priority Representative acknowledge and agree that neither has made any representation or warranty with respect to the execution, validity, legality, completeness, collectibility or enforceability of any First Priority Document or any Second Priority Document. Except as otherwise provided in this Agreement, the Second Priority Representative and the First Priority Representative will be entitled to manage and supervise their respective extensions of credit to any Loan Party in accordance with law and their usual practices, modified from time to time as they deem appropriate.

7.3 No Waivers. No right or benefit of any party hereunder shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of such party or any other party hereto or by any noncompliance by any Loan Party with the terms and conditions of any of the First Priority Documents or the Second Priority Documents.

SECTION 8. *Obligations Unconditional.*

8.1 First Priority Obligations Unconditional. All rights and interests of the First Priority Secured Parties hereunder, and all agreements and obligations of the Second Priority Secured Parties (and, to the extent applicable, the Loan Parties) hereunder, shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any First Priority Document;

(b) any change in the time, place or manner of payment of, or in any other term of, all or any portion of the First Priority Obligations, or any amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of any First Priority Document;

(c) prior to the First Priority Obligations Payment Date, any exchange, release, voiding, avoidance or non-perfection of any security interest in any Common Collateral or any other collateral, or any release, amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of all or any portion of the First Priority Obligations or any guarantee thereof; or

(d) any other circumstances that otherwise might constitute a defense available to, or a discharge of, any Loan Party in respect of the First Priority Obligations, or of any of the Second Priority Representative or any Second Priority Secured Party, or any Loan Party, to the extent applicable, in respect of this Agreement (other than the occurrence of the First Priority Obligations Payment Date).

8.2 Second Priority Obligations Unconditional. All rights and interests of the Second Priority Secured Parties hereunder, and all agreements and obligations of the First Priority Secured Parties (and, to the extent applicable, the Loan Parties) hereunder, shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Second Priority Document;

(b) any change in the time, place or manner of payment of, or in any other term of, all or any portion of the Second Priority Obligations, or any amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of any Second Priority Document;

(c) any exchange, release, voiding, avoidance or non-perfection of any security interest in any Common Collateral or any other collateral, or any release, amendment, waiver or other modification, whether by course of conduct or otherwise, or any refinancing, replacement, refunding or restatement of all or any portion of the Second Priority Obligations or any guarantee thereof; or

(d) any other circumstances that otherwise might constitute a defense available to, or a discharge of, any Loan Party in respect of the Second Priority Obligations or any First Priority Secured Party in respect of this Agreement.

SECTION 9. *Miscellaneous.*

9.1 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of any First Priority Document or any Second Priority Document, the provisions of this Agreement shall govern. Notwithstanding the foregoing, the parties hereto acknowledge that the terms of this Agreement are not intended to and shall not, as between the Loan Parties and the Secured Parties, negate, impair, waive or cancel any rights granted to, or carry liability or obligation of, any Loan Party in the First Priority Documents and the Second Priority Documents or impose any additional obligations on the Loan Parties (other than as expressly set forth herein).

9.2 Continuing Nature of Provisions. This Agreement shall continue to be effective, and shall not be revocable by any party hereto, until the First Priority Obligation Payment Date shall have occurred subject to the reinstatement as expressly set forth herein. This is a continuing agreement and the First Priority Secured Parties and the Second Priority Secured Parties may continue, at any time and without notice to the other parties hereto, to extend credit and other financial accommodations, lend monies and provide indebtedness to, or for the benefit of, Borrower or any other Loan Party on the faith hereof.

9.3 Amendments; Waivers. (a) No amendment or modification of any of the provisions of this Agreement shall be effective unless the same shall be in writing and signed by the First Priority Representative (in accordance with the First Priority Agreement) and the Second Priority Representative (in accordance with the Second Priority Agreement), and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such

waiver or the obligations of the other parties to such party in any other respect or at any other time. Anything herein to the contrary notwithstanding, no consent of any Loan Party shall be required for amendments, modifications or waivers of any provisions of this Agreement except to the extent such Loan Party's direct rights hereunder are expressly decreased or its direct obligations hereunder are expressly increased thereby.

(b) It is understood that this Agreement may be amended from time to time at the request of the Borrower, at the Borrower's sole expense, and without the consent of the First Priority Representative, Second Priority Representative, any First Priority Secured Party or any Second Priority Secured Party to (i) add other parties holding additional Indebtedness or obligations that constitute First Priority Obligations ("**Additional First Priority Debt**") or Second Priority Obligations ("**Additional Second Priority Debt**") (or any agent or trustee thereof) in each case to the extent such Indebtedness or obligation is permitted to be incurred by the First Priority Agreement and Second Priority Agreement then extant, (ii) in the case of Additional Second Priority Debt, (1) establish that the Lien on the Common Collateral securing such Additional Second Priority Debt shall be junior and subordinate in all respects to all Liens on the Common Collateral securing any First Priority Obligations and shall share in the benefits of the Common Collateral equally and ratably with all Liens on the Common Collateral securing any Second Priority Obligations, and (2) provide to the holders of such Additional Second Priority Debt (or any agent or trustee thereof) the comparable rights and benefits (including any improved rights and benefits that have been consented to by the First Priority Representative for the benefit of all Second Priority Debt) as are provided to the holders of Second Priority Obligations under this Agreement, and (iii) in the case of Additional First Priority Debt, (1) establish that the Lien on the Common Collateral securing such Additional First Priority Debt shall be superior in all respects to all Liens on the Common Collateral securing any Second Priority Obligations and shall share in the benefits of the Common Collateral equally and ratably with all Liens on the Common Collateral securing any First Priority Lien Obligations, and (2) provide to the holders of such Additional First Priority Debt (or any agent or trustee thereof) the comparable rights and benefits as are provided to the holders of First Priority Lien Obligations under this Agreement, in each case so long as such modifications do not expressly violate the provisions of any First Priority Agreement or Second Priority Agreement. Any such additional party and each First Priority Representative and Second Priority Representative shall be entitled to rely on the determination of the Borrower that such modifications do not violate any First Priority Agreement or Second Priority Agreement if such determination is set forth in an Officers' Certificate and an opinion of counsel delivered to such party, the First Priority Representative and the Second Priority Representative. Any amendment to this Agreement that is proposed to be effected without the consent of any First Priority Representative shall be submitted to such First Priority Representative reasonably promptly after the effectiveness of such amendment, and no such First Priority Representative shall be deemed to have knowledge of any such amendment until it receives a copy of such amendment. Any amendment to this Agreement that is proposed to be effected without the consent of any Second Priority Representative shall be submitted to such Second Priority Representative reasonably promptly after the effectiveness of such amendment, and no such Second Priority Representative shall be deemed to have knowledge of any such amendment until it receives a copy of such amendment.

9.4 Information Concerning Financial Condition of the Borrower and the other Loan Parties. Neither the Second Priority Representative nor the First Priority Representative hereby assumes responsibility for keeping each other informed of the financial condition of the Borrower and each of the other Loan Parties and all other circumstances bearing upon the risk of nonpayment of the First Priority Obligations or the Second Priority Obligations. The Second Priority Representative and the First Priority Representative hereby agree that no party shall have any duty to advise any other party of information known to it regarding such condition or any such circumstances. In the event the Second Priority

Representative or the First Priority Representative, in its sole discretion, undertakes at any time or from time to time to provide any information to any other party to this Agreement, it shall be under no obligation (a) to provide or update any such information to such other party or any other party on any subsequent occasion, (b) to undertake any investigation not a part of its regular business routine, or (c) to disclose any other information. Neither the First Priority Representative nor the Second Priority Representative shall have any responsibility to monitor or verify the financial condition of the Borrower or other Loan Parties.

9.5 Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of New York, except as otherwise required by mandatory provisions of law and except to the extent that remedies provided by the laws of any jurisdiction other than the State of New York are governed by the laws of such jurisdiction.

9.6 Submission to Jurisdiction. (a) Each First Priority Secured Party, each Second Priority Secured Party and each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of New York and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment with respect to this Agreement, and each such party hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each such party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any First Priority Secured Party or Second Priority Secured Party may otherwise have to bring any action or proceeding against any Loan Party or its properties in the courts of any jurisdiction.

(b) Each First Priority Secured Party, each Second Priority Secured Party and each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so (i) any objection it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in the first sentence of paragraph (a) of this Section and (ii) the defense of an inconvenient forum to the maintenance of such action or proceeding.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.7. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

9.7 Notices. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received or (ii) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient. For the purposes hereof, the addresses of the parties hereto (until notice of a change thereof is delivered as provided in this Section) shall be as set forth below each party's name on the signature pages hereof, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

9.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and each of the First Priority Secured Parties and Second Priority Secured Parties and their respective successors and permitted assigns, and nothing herein is intended, or shall be construed to give, any other Person any right, remedy or claim under, to or in respect of this Agreement or any Common Collateral.

9.9 Headings. Section headings used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

9.10 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

9.11 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by email or telecopy shall be effective as delivery of a manually executed counterpart of this Agreement. This Agreement shall become effective when it shall have been executed by each party hereto.

9.12 **WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.**

9.13 Additional Loan Parties. Each Person that becomes a Loan Party after the date hereof shall become a party to this Agreement upon execution and delivery by such Person of an Assumption Agreement in the form of Annex 1 to the Guarantee and Collateral Agreement referred to in the First Priority Agreement.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

JPMORGAN CHASE BANK, N.A., as First Priority Representative for and on behalf of the First Priority Secured Parties

By:_____
Name:
Title:

Address for Notices:

~~1111 Fannin, 10th Floor~~500 Stanton Christiana Road
NCC5, Floor 02
~~Houston, TX 77002~~
~~ATTN: [_____]~~Newark, DE, 19713-2107
ATTN: Dina E. Scarfo
Email: dina.e.scarfo@chase.com
Telephone: ~~[_____]~~(302) 634-1903
Telecopy: ~~[_____]~~(302) 634-4250

CORTLAND CAPITAL MARKET SERVICES LLC, as Second Priority Representative for and on behalf of the Second Priority Secured Parties

By:_____
Name:
Title:

Address for Notices:

~~[_____]~~
~~ATTN: [_____]~~225 West Washington Street
21st Floor
Chicago, Illinois 60606
ATTN: Ryan Morick and Legal Department
E-mail: ryan.morick@cortlandglobal.com and Legal@cortlandglobal.com
Telephone: [_____]
Telecopy: ~~[_____]~~(302) 376-0751

LRI HOLDINGS, INC.

By: _____
Name:
Title:

LOGAN'S ROADHOUSE, INC.

By:
_____

Name:
Title:

Each of the undersigned hereby acknowledges and agrees to the foregoing terms and conditions:

LOGAN'S ROADHOUSE OF KANSAS, INC.

By: _____
Name:
Title:

LOGAN'S ROADHOUSE OF TEXAS, INC.

By: _____
Name:

Title:

EXHIBIT F

Reorganized Holding Certificate of Incorporation

AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

ROADHOUSE HOLDING INC.

ARTICLE I – NAME AND INCORPORATION

The name of the corporation is Roadhouse Holding Inc. (the "Corporation").

ARTICLE II - REGISTERED OFFICE AND AGENT

The address of the Corporation's registered office in the State of Delaware is [_]. The name of the Corporation's registered agent at such address is [_].

ARTICLE III - PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, as amended from time to time (the "DGCL").

ARTICLE IV - CAPITALIZATION

(a) Authorized Shares. The total number of shares of stock which the Corporation shall have authority to issue is [_], consisting of:

i. [_] shares of Common Stock, par value $0.01 per share ("Common Stock"), and

ii. [_] shares of Preferred Stock, par value $0.01 per share ("Preferred Stock").

Such stock may be issued from time to time by the Corporation for such consideration as may be fixed by the board of directors of the Corporation (the "Board").

(b) Common Stock. Subject to the powers, preferences and rights of any Preferred Stock, including any series thereof having any preference or priority over, or rights superior to, Common Stock, and except as otherwise provided by law, the Stockholders Agreement dated [_], 2016 (the "Stockholders Agreement") and this Article IV, the holders of Common Stock shall have all powers and voting and other rights pertaining to the stock of the Corporation.

i. *Voting.* Each holder of Common Stock, as such, shall be entitled to one vote for each share of Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote; provided, that, except as otherwise required by law or the Stockholders Agreement, holders of Common Stock, solely in their capacity as such, shall not be entitled to vote on any

amendment to this Certificate of Incorporation (including, but not limited to, any certificate of designations relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other series, to vote thereon pursuant to this Certificate of Incorporation (including, but not limited to, any certificate of designations relating to any series of Preferred Stock) or pursuant to the DGCL. There shall be no cumulative voting in the election of directors.

ii. *Dividends.* Dividends may be declared and paid on Common Stock from funds lawfully available therefor as and when determined by the Board and subject to any preferential dividend rights of any then outstanding Preferred Stock. Except as otherwise provided by the DGCL or this Certificate of Incorporation, the holders of record of Common Stock shall share ratably in all dividends payable in cash, stock or otherwise and other distributions, whether in respect of liquidation or dissolution (voluntary or involuntary) or otherwise.

iii. *No Conversion Rights.* Common Stock shall not be convertible into, or exchangeable for, shares of any other class or classes or of any other series of the same class of the Corporation's capital stock.

iv. *Liquidation Rights.* Upon the dissolution or liquidation of the Corporation, whether voluntary or involuntary, holders of Common Stock will be entitled to receive all assets of the Corporation available for distribution to its stockholders ratably in proportion to the number of shares of Common Stock held by them, subject to any preferential rights of any then outstanding Preferred Stock. A merger or consolidation of the Corporation with or into any other corporation or other entity or a sale or conveyance of all or any part of the assets of the Corporation, in any such case which shall not in fact result in the liquidation of the Corporation and the distribution of assets to its stockholders, shall not be deemed to be a voluntary or involuntary liquidation or dissolution or winding up of the Corporation within the meaning of this Article IV(b)(iv).

(c) Preferred Stock. Subject to the terms and conditions of the Stockholders Agreement, (i) shares of Preferred Stock may be issued in one or more series, from time to time, with each such series to consist of such number of shares and to have such voting powers relative to other classes or series of Preferred Stock, if any, or Common Stock, with full, limited or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated in the resolution or resolutions providing for the issuance of such series of Preferred Stock adopted by the Board, and (ii) the Board is hereby expressly vested with the authority, to the full extent now or hereafter provided by applicable law, to adopt any such resolution or resolutions. Except as otherwise provided in this Certificate of Incorporation or as required by the Stockholders Agreement, no vote of the holders of Preferred Stock or Common Stock shall be a prerequisite to the designation or issuance of any shares of any series of Preferred Stock authorized by and complying with the conditions of this Certificate of Incorporation, the right to have such vote being expressly waived by all present and future holders of the capital stock of the Corporation.

Any shares of Preferred Stock that are redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law, this Certificate of Incorporation or the Stockholders Agreement. Different series of Preferred Stock shall not be construed to constitute different classes of shares for the purposes of voting by classes unless expressly provided in the certificate of designations or any resolution or resolutions providing for the issuance of such series adopted by the Board.

(d) No Class Vote On Changes In Authorized Number of Shares Of Preferred Stock. Subject to the special rights of the holders of any series of Preferred Stock pursuant to the terms of this Certificate of Incorporation and the terms and conditions of the Stockholders Agreement, any certificate of designations or any resolution or resolutions providing for the issuance of such series of stock adopted by the Board, the number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of capital stock of the Corporation then entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class, irrespective of the provisions of Section 242(b)(2) of the DGCL.

ARTICLE V - BOARD OF DIRECTORS

(a) Number of Directors; Vacancies and Newly Created Directorships. The entire Board shall initially be comprised of seven (7) directors collectively holding up to twelve (12) votes; provided, however, that the number of directors constituting the Board may be changed from time to time as provided in a resolution of the Board or the Shareholders in accordance with the Bylaws of the Corporation and the Stockholders Agreement. Vacancies and newly-created directorships shall be filled as set forth in the Bylaws and the Stockholders Agreement. The composition of the Board shall be governed by the Stockholders Agreement.

(b) Action of Directors.

i. Each director shall be entitled to cast one vote on any matter before the Board, except that:

A. Subject to Section V(b)(i)(C) below, each Lead Director shall be entitled to cast:

1. three (3) votes on any matter before the Board for so long as the Designating Stockholder that designated such Lead Director pursuant to the terms of the Stockholders Agreement beneficially owns, together with its Affiliates, an amount of Common Stock equal to at least the Three-Vote Threshold;

2. two (2) votes on any matter before the Board for so long as the Designating Stockholder that designated such Lead Director pursuant to the terms of the Stockholders Agreement beneficially owns, together with its Affiliates, an amount of Common Stock

equal to at least the Two-Vote Threshold but less than the Three-Vote Threshold; and

3. thereafter, one vote on any matter before the Board;

B. the CM Director shall be entitled to cast:

1. two (2) votes on any matter before the Board for so long as CM beneficially owns, together with its Affiliates, an amount of Common Stock equal to at least the Two-Vote Threshold; or

2. thereafter, one (1) vote on any matter before the Board ; and

C. the Alternative Directors, together with any Independent Director that becomes entitled to cast additional votes as determined by GSO in accordance with the Stockholders Agreement, shall be entitled to collectively cast (in lieu of the GSO Lead Director) the number of votes that reduces the number of votes the GSO Lead Director would otherwise be entitled to cast to 25% or less of the total number of votes entitled to be cast by the directors on the Board.

For the avoidance of doubt, any vote entitled to be cast by an Alternative Director and any additional vote entitled to be cast by any Independent Director as determined by GSO in accordance with the Stockholders Agreement will reduce the number of votes entitled to be cast by the GSO Lead Director.

ii. Anytime a Designating Stockholder, together with one or more of its Affiliates (collectively, a "Transferring Designating Stockholder"), transfers to one of the other Designating Stockholders or Affiliates thereof (each, a "Transferee Designating Stockholder") (in one or more transactions):

A. an aggregate amount of Common Stock equal to or greater than the Designating Threshold, which causes a reduction in the number of votes entitled to be cast by the Transferring Designating Stockholder's Designated Director pursuant to the Stockholders Agreement from three (3) votes to two (2) votes,

B. an aggregate amount of Common Stock equal to or greater than (x) the Three-Vote Threshold minus the Two-Vote Threshold, in the case of the Lead Directors, and (y) 100% of the Common Stock (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock) issued to CM on the Effective Date minus the Two-Vote Threshold, in the case of CM, which causes a reduction in the number of votes entitled to be cast by the Transferring Designating

Stockholder's Designated Director from two (2) votes to one (1) vote, or

C. an aggregate amount of Common Stock equal to or greater than the Designating Threshold, which causes the loss of the Transferring Designating Stockholder's right to designate a director pursuant to the terms of the Stockholders Agreement,

then, in each such event, the number of votes entitled to be cast on any matter before the Board by the Designated Director of the Transferee Designating Stockholder will increase by one vote for each applicable aggregate transfer of Common Stock concurrently with the corresponding loss of a vote by the Transferring Designating Stockholder's Designated Director. Such Designated Director of the Transferee Designating Stockholder will continue to be entitled to cast any such additional vote or votes so long as the Transferee Designating Stockholder holds such transferred Common Stock and is otherwise entitled to designate a director in accordance with the Stockholders Agreement.

(c) Certain Definitions. Solely for purposes of this Certificate of Incorporation, references to:

i. "Affiliate" means with respect to any person (a) such person's controlling member, general partner, manager and investment manager and affiliates thereof; (b) any entity or managed account that is managed, advised or sub-advised by the same general partner, manager, investment manager or investment advisor as such person or a general partner, manager, investment manager or investment advisor affiliated with such general partner, manager, investment manager or investment advisor of such person; and (c) any other person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first person, the general partner of such Person, investment manager of such Person or an affiliate of such Person, general partner or investment manager.

ii. "Alternative Director" means any director appointed to the Board in accordance with the terms of the Stockholders Agreement in the event of a GSO Excess.

iii. "beneficial owner" (and any derivation thereof) shall be interpreted to have the meaning contemplated by Rule 13d-3 of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

iv. "CM" means Carl Marks Management Company, LLC together with its Affiliates.

v. "CM Director" means a Designated Director designated solely by CM in accordance with the Stockholders Agreement.

vi. "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or

cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

vii. "Designated Director" means a director designee of any stockholder entitled to designate a director for election to the Board pursuant to the terms of the Stockholders Agreement.

viii. "Designating Stockholder" means any stockholder entitled to designate a director for election to the Board pursuant to the terms of the Stockholders Agreement, other than in its capacity as a stockholder of the Corporation to vote for the election of any Independent Director.

ix. "Designating Threshold" means an amount of Common Stock equal to at least ~~25~~24% of the Common Stock issued to [Kelso/GSO][1] on the Effective Date (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to the Common Stock).

x. "Effective Date" means [_], 2016.

xi. "GSO" means GSO Capital Partners, LP. together with its Affiliates.

xii. "GSO Excess" means any time the GSO Lead Director would otherwise be entitled to cast more than 25% of the total number of votes entitled to be cast on any matter before the Board in accordance with this Certificate of Incorporation, assuming all members of the Board are voting on such matter.

xiii. "GSO Lead Director" means a Designated Director solely designated by GSO in accordance with the Stockholders Agreement.

xiv. "Independent Director" means any independent director of the Board who is nominated by the Board and selected by stockholders holding a majority of the Voting Securities, in accordance with the Stockholders Agreement.

xv. "Kelso" means Kelso & Company together with its Affiliates.

xvi. "Kelso Lead Director" means a Designated Director solely designated by Kelso in accordance with the Stockholders Agreement.

xvii. "Lead Directors" means the GSO Lead Director and the Kelso Lead Director.

xviii. "Two-Vote Threshold" means an amount of Common Stock equal to 75% of the Common Stock issued to CM on the Effective Date.

[1] NTD: If Kelso holds less Common Stock than GSO on the Effective Date, then this will be Kelso. Otherwise, it will be GSO.

xix. "Three-Vote Threshold" means an amount of Common Stock equal to 75% of the Common Stock issued to [Kelso/GSO][2] on the Effective Date.

(d) Removal. Subject to the special rights of the holders of any series of Preferred Stock to elect directors and the terms and conditions of the Stockholders Agreement, and notwithstanding any other provision of this Certificate of Incorporation, directors of the Corporation may be removed at a meeting of stockholders called for that purpose, by the affirmative vote of the holders of at least a majority of the Voting Stock, voting together as a single class.

(e) Authority of the Board. All corporate powers of the Corporation shall be exercised by or under the direction of the Board except as otherwise provided herein, in the Stockholders Agreement or by applicable law. In furtherance and not in limitation of the powers conferred by law, the Board is expressly authorized from time to time to determine whether and to what extent, at what time and place, and under what conditions and regulations the accounts and books of the Corporation, or any of them, shall be open to the inspection of any stockholder; and no stockholder shall have any right to inspect any account or book or document of the Corporation except as provided by applicable law, the Stockholders Agreement or the Bylaws of the Corporation or as authorized by resolution of the stockholders or Board of Directors of the Corporation.

ARTICLE VI - LIMITATION OF DIRECTOR LIABILITY

To the fullest extent that the DGCL or any other law of the State of Delaware (as they exist on the date hereof or as they may hereafter be amended) permits the limitation or elimination of the liability of directors, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director.

No amendment to, or modification or repeal of, this Article VI shall adversely affect any right or protection of a director of the Corporation against liability existing hereunder with respect to any state of facts existing or act or omission occurring, or any cause of action, suit or claim that, but for this Article VI, would accrue or arise, prior to such amendment, modification or repeal. If the DGCL is amended after the filing of this Certificate of Incorporation to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. This provision is not intended to eliminate or narrow any defenses to or protection against liability otherwise available to directors of the Corporation.

ARTICLE VII – ACTION BY STOCKHOLDERS

The stockholders of the Corporation may take any action required or permitted to be taken by the Corporation's stockholders by written consent in lieu of a meeting.

ARTICLE VIII - RENOUNCEMENT OF CORPORATE OPPORTUNITY

[2] NTD: If Kelso holds less Common Stock than GSO on the Effective Date, then this will be Kelso. Otherwise, it will be GSO.

(a) Certain Acknowledgments. In recognition and anticipation that (i) the directors, officers and/or employees of the Lead Stockholders (as defined below) and their respective Affiliates may serve as directors and/or officers of the Corporation, (ii) the Lead Stockholders and their respective Affiliates engage and may continue to engage in the same or similar activities or related lines of business as those in which the Corporation, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Corporation, directly or indirectly, may engage, and (iii) that the Corporation may engage in material business transactions with the Lead Stockholders and their respective Affiliates and that the Corporation is expected to benefit therefrom, the provisions of this Article VIII are set forth to regulate and define the conduct of certain affairs of the Corporation as they may involve the Lead Stockholders or their respective Affiliates, and the powers, rights, duties and liabilities of the Corporation and its officers, directors and stockholders in connection therewith. The "Lead Stockholders" means, collectively, GSO, Kelso, CM, Marblegate Asset Management, LLC and their Affiliates.

(b) Competition and Corporate Opportunities. None of the Lead Stockholders nor any of their respective Affiliates shall have any duty to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as the Corporation and none of the Lead Stockholders nor any officer or director thereof (except as provided in paragraph (c) below) shall be liable to the Corporation or its stockholders for breach of any fiduciary duty solely by reason of any such activities of such Lead Stockholder or any of its Affiliates. In the event that a Lead Stockholder or any of its Affiliates acquires knowledge of a potential transaction or matter which may be a corporate opportunity for itself and the Corporation, neither of such Lead Stockholder nor any of its Affiliates shall have any duty to communicate or offer such corporate opportunity to the Corporation and shall not be liable to the Corporation or its stockholders for breach of any fiduciary duty as a stockholder of the Corporation solely by reason of the fact that such Lead Stockholder or any of its Affiliates pursues or acquires such corporate opportunity for itself, directs such corporate opportunity to another person, or does not communicate information regarding such corporate opportunity to the Corporation.

(c) Allocation of Corporate Opportunities. In the event that a director or officer of the Corporation who is also a director or officer of a Lead Stockholder acquires knowledge of a potential transaction or matter which may be a corporate opportunity for the Corporation and such Lead Stockholder or any of its Affiliates, such director or officer of the Corporation shall have fully satisfied and fulfilled the fiduciary duty of such director or officer to the Corporation and its stockholders with respect to such corporate opportunity, if such director or officer acts in a manner consistent with the following policy:

i. A corporate opportunity offered to any person who is a director or officer of the Corporation, and who is also a director or officer of a Lead Stockholder

or any of its Affiliates, shall belong to the Corporation if such opportunity is expressly offered to such person in writing solely in his or her capacity as a director or officer of the Corporation.

ii. Otherwise, such corporate opportunity shall belong to such Lead Stockholder and its Affiliates.

(d) Certain Matters Deemed Not Corporate Opportunities. In addition to and notwithstanding the foregoing provisions of this Article VIII, a corporate opportunity shall not be deemed to belong to the Corporation if it is a business opportunity that the Corporation is not permitted to undertake under the terms of Article III or that the Corporation is not financially able or contractually permitted or legally able to undertake, or that is, from its nature, not in the line of the Corporation's business or is of no practical advantage to it or that is one in which the Corporation has no interest or reasonable expectancy.

(e) Renouncement of Certain Corporate Opportunities. Except as provided in paragraph (c)(i) above, if a director or officer of the Corporation who is also a director or officer of a Lead Stockholder or any of its respective Affiliates acquires knowledge of a potential transaction or matter which may be a corporate opportunity, the Corporation shall have no interest in such corporate opportunity and no expectancy that such corporate opportunity be offered to it, any such interest or expectancy being hereby renounced, so that such person shall have no duty to present such corporate opportunity to the Corporation and shall have the right to hold and exploit any such corporate opportunity for its (and its officers', employees', directors', agents', stockholders', members', partners', affiliates' or subsidiaries') own account or to direct, sell, assign or transfer such corporate opportunity to persons other than the Corporation. Such person shall not breach any fiduciary duty to the Corporation or to its stockholders by reason of the fact that such person does not present such corporate opportunity to the Corporation or pursues, acquires or exploits such corporate opportunity for itself or directs, sells, assigns or transfers such corporate opportunity to another person.

(f) Agreements and Transactions with a Lead Stockholder. In the event that a Lead Stockholder or any of its Affiliates enters into an agreement or transaction with the Corporation, a director or officer of the Corporation who is also a director or officer of such Lead Stockholder or any of its Affiliates shall have fully satisfied and fulfilled the fiduciary duty of such director or officer to the Corporation and its stockholders with respect to such agreement or transaction, if:

i. The agreement or transaction was approved by an affirmative vote of a majority of the members of the Board who are not persons with a material financial interest in the agreement or transaction ("Interested Persons"), after being made aware of the material facts of the relationship between each of the Corporation and any Lead Stockholder or an Affiliate thereof and the material terms and facts of the agreement or transaction; or

ii. The agreement or transaction was approved by an affirmative vote of a majority of the shares of the Corporation's Common Stock entitled to vote, excluding shares beneficially owned by a Lead Stockholder, any Affiliate thereof or Interested Person with respect thereto.

(g) Deemed Notice. Any person or entity purchasing or otherwise acquiring any interest in any shares of the Corporation shall be deemed to have notice or and to have consented to the provisions of this Article VIII.

ARTICLE IX - AMENDMENTS

Notwithstanding anything to the contrary contained in this Certificate of Incorporation, and notwithstanding that a lesser percentage may be permitted from time to time by applicable law, no provision of this Certificate of Incorporation may be altered, amended or repealed in any respect, nor may any provision or bylaw inconsistent therewith be adopted, unless in addition to any other vote required by this Certificate of Incorporation or otherwise required by law, such alteration, amendment, repeal or adoption is approved by, in addition to any other vote otherwise required by law, the affirmative vote of the holders of at least sixty-seven percent (67%) of the Voting Stock, voting together as a single class.

ARTICLE X - SEVERABILITY

If any provision or provisions of this Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (a) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and (b) to the fullest extent possible, the provisions of this Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its

directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

ARTICLE XI - MISCELLANEOUS

(a) Election of directors need not be by written ballot unless the bylaws of the Corporation so provide.

(b) Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Corporation, (2) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (3) any action asserting a claim arising pursuant to any provision of the DGCL, or (4) any action asserting a claim governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article X(b).

IN WITNESS WHEREOF, the undersigned has caused this Amended and Restated Certificate of Incorporation to be executed by the officer below this ____ day of [_], 2016.

ROADHOUSE
HOLDING INC.

By: _____
Name:
Title:

EXHIBIT G

Reorganized Holding By-Laws

ROADHOUSE HOLDING INC.

AMENDED AND RESTATED BYLAWS

As Amended on [_], 2016

TABLE OF CONTENTS

ARTICLE I	MEETINGS OF STOCKHOLDERS	3
ARTICLE II	BOARD OF DIRECTORS	7
ARTICLE III	COMMITTEES	~~9~~10
ARTICLE IV	OFFICERS	~~10~~11
ARTICLE V	CAPITAL STOCK	~~13~~14
ARTICLE VI	INDEMNIFICATION	~~14~~15
ARTICLE VII	OFFICES	~~16~~17
ARTICLE IX	AMENDMENT OF BYLAWS	~~17~~19
ARTICLE X	CONSTRUCTION	~~17~~19

ARTICLE I

MEETINGS OF STOCKHOLDERS

Section 1.01. Annual Meetings. An annual meeting of the stockholders of Roadhouse Holding Inc., a Delaware corporation (the "Corporation"), for the election of directors and for the transaction of such other business as properly may come before such meeting shall be held each year either within or without the State of Delaware on such date and at such place and time as are designated by resolution of the Corporation's board of directors (the "Board"), unless the stockholders have acted by written consent to elect directors as permitted by the General Corporation Law of the State of Delaware, as amended from time to time (the "DGCL").

Section 1.02. Special Meetings. A special meeting of the stockholders for any purpose shall be called by the Board if directed by the holders of not less than 25% of the voting power of the then outstanding shares of capital stock of the Corporation then entitled to vote generally in the election of directors (the "Voting Stock"), to be held either within or without the State of Delaware, on such date and at such time and place as are designated by such holders in such direction.

Section 1.03. Participation in Meetings by Remote Communication. The Board, acting in its sole discretion, may establish guidelines and procedures in accordance with applicable provisions of the DGCL and any other applicable law for the participation by stockholders and proxy holders in a meeting of stockholders by means of remote communications, and may determine that any meeting of stockholders will not be held at any place but will be held solely by means of remote communication. Stockholders and proxy holders complying with such procedures and guidelines and otherwise entitled to vote at a meeting of stockholders shall be deemed present in person and entitled to vote at a meeting of stockholders, whether such meeting is to be held at a designated place or solely by means of remote communication.

Section 1.04. Notice of Meetings; Waiver of Notice.

(a) The Secretary or any Assistant Secretary shall cause notice of each meeting of stockholders to be given in writing in a manner permitted by the DGCL not less than 10 days nor more than 60 days prior to the meeting to each stockholder of record entitled to vote at such meeting, subject to such exclusions as are then permitted by the DGCL. The notice shall specify (i) the place, if any, date and time of such meeting, (ii) the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, (iii) in the case of a special meeting, the purpose or purposes for which such meeting is called, and (iv) such other information as may be required by law or as may be deemed appropriate by the President, the Board or, in the case of a special meeting, the holders directing the calling of such meeting. If the stockholder list referred to in Section 1.06 of these Bylaws is made accessible on an electronic network, the notice of meeting must indicate how the stockholder list can be accessed. If the meeting of stockholders is to be held solely by means of electronic communications, the notice of meeting must provide the information required to access such stockholder list during the meeting. If mailed, such notice shall be deemed to be

given when deposited in the United States mail, postage prepaid, directed to the stockholder at his, her or its address as it appears on the records of the Corporation.

(b) A written waiver of notice of meeting signed by a stockholder or a waiver by electronic transmission by a stockholder, whether given before or after the meeting time stated in such notice, is deemed equivalent to notice. Attendance of a stockholder at a meeting is a waiver of notice of such meeting, except when the stockholder attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business at the meeting on the ground that the meeting is not lawfully called or convened.

Section 1.05. Proxies.

(a) Each stockholder entitled to vote at a meeting of stockholders or to express consent to or dissent from corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy.

(b) A stockholder may authorize a valid proxy by executing a written instrument signed by such stockholder, or by causing his or her signature to be affixed to such writing by any reasonable means, including but not limited to by facsimile signature, or by transmitting or authorizing an electronic transmission (as defined in Section 8.08 of these Bylaws) setting forth an authorization to act as proxy to the person designated as the holder of the proxy, a proxy solicitation firm or a like authorized agent. Proxies by electronic transmission must either set forth, or be submitted with, information from which it can be determined that the electronic transmission was authorized by the stockholder. Any copy, facsimile telecommunication or other reliable reproduction of a writing or transmission created pursuant to this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used if such copy, facsimile telecommunication or other reproduction is a complete reproduction of the entire original writing or transmission.

(c) No proxy may be voted or acted upon after the expiration of three years from the date of such proxy, unless such proxy provides for a longer period. Every proxy is revocable at the pleasure of the stockholder executing it unless the proxy states that it is irrevocable and applicable law makes it irrevocable. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by filing an instrument in writing revoking the proxy or by filing another duly executed proxy bearing a later date with the Secretary.

Section 1.06. Voting Lists. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare, at least 10 days before every meeting of the stockholders (and before any adjournment thereof for which a new record date has been set), a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. This list shall be open to the examination of any stockholder prior to and during the meeting for any purpose germane to the meeting as required by the DGCL or other applicable law. The stock ledger shall be the only evidence as to who are the stockholders entitled by this section to

examine the list required by this section or to vote in person or by proxy at any meeting of stockholders.

Section 1.07. Quorum. Except as otherwise required by law or by the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate"), the presence in person, telephonically or by proxy of the holders of record of a majority of the Voting Stock (as determined pursuant to the Certificate, these Amended and Restated Bylaws (these "Bylaws") and the Amended and Restated Stockholders Agreement, dated as of [_], 2016, by and among the Corporation and the stockholders party thereto (the "Stockholders Agreement")) shall constitute a quorum for the transaction of business at such meeting. Once established, a quorum may not be broken by withdrawal of enough votes that constitute less than a quorum. For the avoidance of doubt, shares of its own capital stock belonging on the record date for the meeting to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 1.08. Voting.

(a) Unless otherwise provided in the Certificate, every holder of record of Voting Stock is entitled to one vote for each share outstanding in his or her name on the books of the Corporation (x) at the close of business on the record date for such meeting, or (y) if no record date has been fixed, at the close of business on the day next preceding the day on which notice of the meeting is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) In all matters, when a quorum is present at any meeting, the vote of holders of a majority of the Voting Stock which is present in person or represented by proxy (as determined pursuant to the Certificate, these Bylaws and the Stockholders Agreement) shall decide any question brought before such meeting, except with respect to matters on which the Stockholders Agreement, applicable law or the Certificate require a different vote, in which case the Stockholders Agreement, applicable law or the Certificate, as applicable, shall govern and control the vote with respect to such matter.

Section 1.09. Adjournment. Any meeting of stockholders may be adjourned from time to time, by the chairperson of the meeting or by the vote of holders of a majority of the shares of Voting Stock present in person or represented by proxy at the meeting, to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the place, if any, and date and time thereof (and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting) are announced at the meeting at which the adjournment is taken unless the adjournment is for more than 30 days or a new record date is fixed for the adjourned meeting after the adjournment, in which case notice of the adjourned meeting in accordance with Section 1.04 of these Bylaws shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned

meeting, the Corporation may transact any business that might have been transacted at the original meeting.

Section 1.10. Organization; Procedure. The Chairperson of the Board (the "Chairperson") shall preside over each meeting of stockholders. If the Chairperson is absent or disabled, the presiding officer shall be selected by the Board or, failing action by the Board, by holders of a majority of the Voting Stock present in person or represented by proxy. The Secretary, or in the event of his or her absence or disability, an appointee of the presiding officer, shall act as secretary of the meeting. The Board may make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to any such rules and regulations, the presiding officer of any meeting shall have the right and authority to prescribe rules, regulations and procedures for such meeting and to take all such actions as in the judgment of the presiding officer are appropriate for the proper conduct of such meeting.

Section 1.11. Consent of Stockholders in Lieu of Meeting.

(a) Unless otherwise provided in the Certificate, any action required or permitted to be taken at an annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote of stockholders, if a consent or consents in writing, setting forth the action so taken, are (i) signed by the holders of Voting Stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted (but not less than the minimum number of votes otherwise prescribed by law) and (ii) delivered to the Corporation by delivery to its principal place of business within 60 days of the earliest dated consent so delivered to the Corporation.

(b) If a stockholder consent is to be given without a meeting of stockholders, and the Board has not fixed a record date for the purpose of determining the stockholders entitled to participate in such consent, then: (i) if the DGCL does not require action by the Board prior to the proposed stockholder action, the record date shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation at any of the locations referred to in Section 1.11(a)(ii); and (ii) if the DGCL requires action by the Board prior to the proposed stockholder action, the record date shall be at the close of business on the day on which the Board adopts the resolution taking such prior action. Every written consent to action without a meeting shall bear the date of signature of each stockholder who signs the consent, and shall be valid if timely delivered to the Corporation at the location referred to in Section 1.11(a)(ii).

(c) Any stockholder may provide, whether through instruction to an agent or otherwise, that a consent to an action will be effective at a future time (including a time determined upon the happening of an event), no later than sixty (60) days after such instruction is given or such provision is made. Any such consent shall be revocable prior to its becoming effective.

(d) The Secretary shall give prompt notice of the taking of an action without a meeting by less than unanimous written consent to those stockholders who have not consented in

writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take the action were delivered to the Corporation in accordance with the DGCL.

Section 1.12. Inspector of Elections. The Board may, and shall if required by law, appoint an inspector or inspectors of election for any meeting of stockholders. Such inspectors shall decide upon the qualification of the votes and report the number of shares represented at the meeting and entitled to vote, shall conduct the voting and accept the votes and when the voting is completed shall ascertain and report the number of shares voted respectively for and against each position upon which a vote is taken by ballot, in each case in accordance with the Certificate and the terms of the Stockholders Agreement. The inspectors need not be stockholders, and any officer of the Corporation may be an inspector on any position other than a vote for or against a proposal in which such person shall have a material interest. The inspectors shall perform such other duties as may be required by law.

Section 1.13. Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not be more than sixty nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action.

ARTICLE II

BOARD OF DIRECTORS

Section 2.01. General Powers. Except as may otherwise be provided by law or by the Certificate, or as expressly reserved to the affirmative vote of the stockholders pursuant to the Stockholders Agreement, the affairs and business of the Corporation shall be managed under the direction of the Board. The directors shall act only as a Board, and the individual directors shall have no power as such. The directors need not be stockholders of the Corporation.

Section 2.02. Number and Term of Office. The Board shall consist of seven directors or such other number as may be established from time to time by resolution of the Board or the stockholders (and subject to the terms and conditions of the Stockholders Agreement). Each director shall be a natural person and (whenever elected) shall hold office until his or her successor has been duly elected and qualified, or until his or her earlier death, resignation or removal.

Section 2.03. Composition. The composition of the Board shall be governed by the terms of the Stockholders Agreement. Subject to the terms and conditions of the Stockholders Agreement, any vacancy on the Board caused by death, resignation, removal or otherwise, or through an increase in the number of directors may be filled by a majority of the Board then in office, even if

less than a quorum, or by a sole remaining director. Elections of directors need not be by written ballot.

Section 2.04. Regular Meetings. Regular meetings of the Board shall be held no less than quarterly on such dates, and at such times and places as are determined from time to time by resolution of the Board.

Section 2.05. Special Meetings.

(a) Special meetings of the Board shall be held whenever called by any two or more directors then in office acting collectively (irrespective of voting power), at such place, date and time as may be specified in the respective notices or waivers of notice of such meetings. Any business may be conducted at a special meeting. Notices of special meetings shall be given to each director personally, or by telephone confirmed by facsimile or email dispatched promptly thereafter, or by facsimile or email confirmed by a writing delivered by a recognized overnight courier service, directed to each director at the address from time to time designated by such director to the Secretary. Each such notice and confirmation must be given (received in the case of personal service or delivery of written confirmation) at least 24 hours prior to the time of a special meeting.

(b) A written waiver of notice of special meeting signed by a director or a waiver by electronic transmission by a director, whether given before or after the meeting time stated in such notice, is deemed equivalent to notice. Attendance of a director at a special meeting is a waiver of notice of such meeting, except when the director attends a special meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business at the meeting on the ground that the meeting is not lawfully called or convened.

Section 2.06. Quorum; Voting.

(a) At all meetings of the Board, the presence (telephonically or in person) of directors holding a majority of the votes of all directors on the Board shall constitute a quorum for the transaction of business.

(b) Except as otherwise required by law, the Stockholders Agreement, the Certificate or these Bylaws, the majority vote of the directors of the whole Board at any meeting at which a quorum is present shall be the act of the Board.

(c) On any matter before the Board, each director shall be entitled to cast the number of votes as set forth in the Certificate.

Section 2.07. Action by Telephonic Communications. Members of the Board may participate in a meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting.

Section 2.08. Adjournment. Directors holding a majority of the votes present at any meeting of the Board may adjourn such meeting to another date, time or place, whether or not a quorum is present. No notice need be given of any adjourned meeting unless (a) the date, time and place of the adjourned meeting are not announced at the time of adjournment, in which case notice conforming to the requirements of Section 2.05 of these Bylaws applicable to special meetings shall be given to each director, or (b) the meeting is adjourned for more than 24 hours, in which case the notice referred to in clause (a) shall be given to those directors not present at the announcement of the date, time and place of the adjourned meeting.

Section 2.09. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmissions are filed with the minutes of proceedings of the Board.

Section 2.10. Chairperson of the Board. To the extent consistent with applicable law, the Certificate, the Stockholders Agreement and these Bylaws, the Board may adopt such rules and regulations for the conduct of meetings of the Board and for the management of the affairs and business of the Corporation as the Board may deem appropriate. Upon the vote of a majority vote of the Designated Directors (as defined in the Certificate) (together with Alternative Directors (as defined in the Certificate), if any), the Board shall elect from among its members a chairperson to preside over meetings and to have such rights and perform such other duties as may be customary for non-executive chairpersons as designated by the Board.

Section 2.11. Resignations of Directors. Any director may resign at any time by submitting an electronic transmission or by delivering a written notice of resignation, signed by such director, to the chairperson or the Secretary. Such resignation shall take effect upon delivery unless the resignation specifies a later effective date or an effective date determined upon the happening of a specified event.

Section 2.12. Removal of Directors. Subject to the terms and conditions of the Stockholders Agreement, any director may be removed at any time, either for or without cause, upon the affirmative vote of the holders of a majority of the shares of Voting Stock, acting at a stockholder meeting or by written consent in accordance with the DGCL and these Bylaws. Subject to the terms and conditions of the Stockholders Agreement, any vacancy in the Board caused by any such removal may be filled at such meeting (or in the written instrument effecting the removal, if the removal was effected by consent without a meeting) by the stockholders of the Corporation entitled to vote for the election of the director so removed.

Section 2.13. Vacancies and Newly Created Directorships. A director elected to fill a vacancy or a newly created directorship shall hold office until his or her successor has been elected and qualified or until his or her earlier death, resignation or removal.

Section 2.14. Fees and Compensation. Each director and each member of a committee of the Board shall receive such fees and reimbursement of expenses incurred on behalf of the Corporation or in attending meetings as the Board may from time to time determine. No such

payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE III

COMMITTEES

Section 3.01. Designation of Committees. The Board may designate one or more committees. Each committee shall consist of such number of directors as from time to time may be fixed by the Board, and, subject to clause (b) of this Section 3.01, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation to the extent delegated to such committee by the Board and not inconsistent with the terms and conditions of the Stockholders Agreement, provided, however, that (a) no committee shall have any power or authority as to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors to the extent not inconsistent with the terms and conditions of the Stockholders Agreement) expressly required by the DGCL to be submitted to stockholders for approval, (ii) adopting, amending or repealing any of these Bylaws or (iii) as may otherwise be excluded by law, by the Certificate or by the Stockholders Agreement, and no committee may delegate any of its power or authority to a subcommittee unless so authorized by the Board and (b) no act or action by any committee shall have the power or authority of the Board, unless the number of votes of the members of such Committee in favor of such act or action is no less than the minimum number of votes that would be necessary for the Board to authorize or take such act or action at a meeting of the Board at which all directors entitled to vote on such matter are present and voted. Notwithstanding the foregoing, clause (b) of the prior sentence shall not apply to (A) any compensation committee or audit committee of the Board, so long as (1) such committee has the limited scope of authority customary for such type of committee of the board of directors of a Delaware corporation, (2) such committee has exactly three members, and (3) each member of such committee has one vote (but not more than one vote) in respect of any matters before such committee, or (B) any special committee that is formed for the purpose of considering and negotiating any transaction to the extent such committee is necessary to avoid a conflict of interest between and/or among the parties to such transaction, so long as (1) such committee has the limited scope of authority relating to the review of and, if so determined, recommendation for approval to the Board of such transaction, and (2) each member of such committee has one vote (but not more than one vote) in respect of any matters before such committee.

Section 3.02. Members and Alternate Members. The members of each committee and any alternate members shall be selected by the Board. The Board may provide that the members and alternate members serve at the pleasure of the Board. An alternate member may replace any absent or disqualified member at any meeting of the committee. An alternate member shall be given all notices of committee meetings, may attend any meeting of the committee, but may count towards a quorum and vote only if a member for whom such person is an alternate is absent or disqualified. Each member (and each alternate member) of any committee shall hold office only until the time he or she shall cease for any reason to be a director, or until his or her earlier death, resignation or removal.

Section 3.03. Committee Procedures. A quorum for each committee shall be members holding a majority of the votes of all members of the committee, unless a greater quorum is established by the Board. Subject to Section 3.01(b) of these Bylaws, the majority vote of the committee members present at a meeting at which a quorum is present shall be the act of the committee. Each committee shall keep regular minutes of its meetings and report to the Board when required. The Board may adopt other rules and regulations for the government of any committee not inconsistent with the provisions of these Bylaws, the Certificate or the Stockholders Agreement, and each committee may adopt its own rules and regulations of government, to the extent not inconsistent with these Bylaws, the Certificate, the Stockholders Agreement or rules and regulations adopted by the Board.

Section 3.04. Meetings and Actions of Committees. Subject to Section 3.01(b), meetings and actions of each committee shall be governed by, and held and taken in accordance with, the provisions of the following sections of these Bylaws, with such Bylaws being deemed to refer to the committee and its members in lieu of the Board and its members:

(a) Section 2.04 (to the extent relating to place and time of regular meetings);

(b) Section 2.05 (relating to special meetings);

(c) Sections 2.07 and 2.09 (relating to telephonic communication and action without a meeting); and

(d) Section 2.08 (relating to adjournment and notice of adjournment).

Special meetings of committees may also be called by resolution of the Board.

Section 3.04. Resignations and Removals. Any member (and any alternate member) of any committee may resign from such position at any time by delivering a written notice of resignation, signed by such member, to the chairperson or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. Subject to the terms and conditions of the Stockholders Agreement, any member (and any alternate member) of any committee may be removed from such position by the Board at any time, either for or without cause.

Section 3.05. Vacancies. If a vacancy occurs in any committee for any reason, the remaining members (and any alternate members) may continue to act if a quorum is present. Except as provided in the Stockholders Agreement, a committee vacancy may be filled only by the Board.

ARTICLE IV

OFFICERS

Section 4.01. Officers. The Board shall elect a President and a Secretary as officers of the Corporation. The Board may also elect a Treasurer, one or more Vice Presidents, Assistant Secretaries and Assistant Treasurers, and such other officers and agents as the Board may

determine. In addition, the Board from time to time may delegate to any officer the power to appoint subordinate officers or agents and to prescribe their respective rights, terms of office, authorities and duties. Any action by an appointing officer may be superseded by action by the Board. Any number of offices may be held by the same person, except that one person may not hold both the office of President and the office of Secretary. No officer need be a director of the Corporation.

Section 4.02. Election. The officers of the Corporation elected by the Board shall serve at the pleasure of the Board. Subordinate officers and agents appointed by officers pursuant to delegated authority as provided in Section 4.01 (or, in the case of agents, as provided in Section 4.06) shall hold their offices for such terms as may be determined from time to time by the appointing officer. Each officer shall hold office until his or her successor has been elected or appointed and qualified, or until his or her earlier death, resignation or removal.

Section 4.03. Compensation. The salaries and other compensation of all officers and agents of the Corporation shall be fixed by the Board or a committee thereof or in the manner established by the Board.

Section 4.04. Removal and Resignation; Vacancies. Any officer may be removed for or without cause at any time by the Board. Any officer granted the power to appoint subordinate officers and agents as provided in Section 4.01 may remove any subordinate officer or agent appointed by such officer, for or without cause. Any officer or agent may resign at any time by delivering notice of resignation, either in writing signed by such officer or by electronic transmission, to the Board or the President. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise, may be filled by the Board or by the officer, if any, who appointed the person formerly holding such office.

Section 4.05. Authority and Duties of Officers. An officer of the Corporation shall have such authority and shall exercise such powers and perform such duties (a) as may be required by law, (b) to the extent not inconsistent with law, as are specified in these Bylaws, (c) to the extent not inconsistent with law or these Bylaws, as may be specified by resolution of the Board, and (d) to the extent not inconsistent with any of the foregoing, as may be specified by the appointing officer with respect to a subordinate officer appointed pursuant to delegated authority under Section 4.01.

Section 4.06. President. The President shall be the chief executive officer and the chief operating officer of the Corporation, shall have general control and supervision of the policies and operations of the Corporation and shall see that all orders and resolutions of the Board are carried into effect. He or she shall manage and administer the Corporation's business and affairs and shall also perform all duties and exercise all powers usually pertaining to the office of a chief executive officer and a chief operating officer of a corporation. He or she shall have the authority, to the extent customarily pertaining to the office of the President in a Delaware corporation, to sign, in the name and on behalf of the Corporation, checks, orders, contracts, leases, notes, drafts and all other documents and instruments in connection with the business of the Corporation. He or she shall have the authority to cause the employment or appointment of

such employees or agents of the Corporation as the conduct of the business of the Corporation may require, to fix their compensation, and to remove or suspend any employee or any agent employed or appointed by any officer or to suspend any agent appointed by the Board. The President shall have the duties and powers of the Treasurer if no Treasurer is elected and shall have such other duties and powers as the Board may from time to time prescribe.

Section 4.07. Vice Presidents. If one or more Vice Presidents have been elected, each Vice President shall perform such duties and exercise such powers as may be assigned to him or her from time to time by the Board or the President. In the event of absence or disability of the President, the duties of the President shall be performed, and his or her powers may be exercised, by such Vice President as shall be designated by the Board or, failing such designation, by the Vice President in order of seniority of election to that office.

Section 4.08. Secretary. Unless otherwise determined by the Board, the Secretary shall have the following powers and duties:

(a) The Secretary shall keep or cause to be kept a record of all the proceedings of the meetings of the stockholders, the Board and any committees thereof in books provided for that purpose.

(b) The Secretary shall cause all notices to be duly given in accordance with the provisions of these Bylaws and as required by law.

(c) The Secretary shall be the custodian of the stock books and records and of the seal of the Corporation and cause such seal (or a facsimile thereof) to be affixed to all certificates representing shares of the Corporation prior to the issuance thereof and to all documents and instruments that the Board or any officer of the Corporation has determined should be executed under seal, may sign (together with any other authorized officer) any such document or instrument, and when the seal is so affixed he or she may attest the same.

(d) The Secretary shall properly maintain and file all books, reports, statements, certificates and all other documents and records required by law, the Certificate or these Bylaws.

(e) The Secretary shall perform, in general, all duties incident to the office of secretary and such other duties as may be specified in these Bylaws or as may be assigned to the Secretary from time to time by the Board or the President.

Section 4.09. Treasurer. Unless otherwise determined by the Board, the Treasurer, if there be one, shall be the chief financial officer of the Corporation and shall have the following powers and duties:

(a) The Treasurer shall have charge and supervision over and be responsible for the moneys, securities, receipts and disbursements of the Corporation, and shall keep or cause to be kept full and accurate records thereof.

(b) The Treasurer shall perform, in general, all duties incident to the office of treasurer and such other duties as may be specified in these Bylaws or as may be assigned to the Treasurer from time to time by the Board or the President.

ARTICLE V

CAPITAL STOCK

Section 5.01. Certificates of Stock. The Corporation's stock shall be certificated, as provided under Delaware law, and shall be entered in the books of the Corporation and registered as such stock is issued. Every holder of stock in the Corporation shall be entitled to have a certificate signed by the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, representing the number of shares registered in the name of such holder. Such certificate shall be in such form as the Board may determine, to the extent consistent with applicable law, the Certificate and these Bylaws.

Section 5.02. Facsimile Signatures. Any or all signatures on the certificates referred to in Section 5.01 of these Bylaws may be in facsimile form. If any officer who has signed, or whose facsimile signature has been placed upon, a certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer at the date of issue.

Section 5.03. Lost, Stolen or Destroyed Certificates. A new certificate may be issued in place of any certificate theretofore issued by the Corporation alleged to have been lost, stolen or destroyed only upon delivery to the Corporation of an affidavit of the owner or owners (or their legal representatives) of such certificate, setting forth such allegation, and a bond or other undertaking as may be satisfactory to an officer of the Corporation designated by the Board to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate.

Section 5.04. Transfer of Stock. Transfer of shares shall be made on the books of the Corporation upon surrender to the Corporation of a certificate for shares, duly endorsed or accompanied by appropriate evidence of succession, assignment or authority to transfer, and otherwise in compliance with applicable law. Subject to applicable law, the provisions of the Certificate, the Stockholders Agreement and these Bylaws, the Board and holders of capital stock of the Corporation may prescribe such additional rules and regulations as may be deemed appropriate relating to the issue, transfer and registration of shares of the Corporation.

Section 5.05. Registered Stockholders. Prior to due surrender of a certificate for registration of transfer, the Corporation may treat the registered owner as the person exclusively entitled to receive dividends and other distributions, to vote, to receive notice and otherwise to exercise all the rights and powers of the owner of the shares represented by such certificate, and the Corporation shall not be bound to recognize any equitable or legal claim to or interest in such shares on the part of any other person, whether or not the Corporation shall have notice of such claim or interests. If a transfer of shares is made for collateral security, and not absolutely, this

fact shall be so expressed in the entry of the transfer if, when the certificates are presented to the Corporation for transfer, both the transferor and transferee request the Corporation to do so.

ARTICLE VI

INDEMNIFICATION

Section 6.01 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit, inquiry, investigation or proceeding, whether civil, criminal, administrative, arbitral or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation or is or was serving at the request of the Corporation as a director, manager, officer, agent or trustee of another corporation or of a partnership, joint venture, trust or other enterprise (the person's status in such role, "Corporate Status"), including service with respect to an employee benefit plan (such person, hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer or trustee, or in any other capacity while serving as a director, officer or trustee, or such action was taken on such director's, officer's or trustee's behalf, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the law permitted the Corporation to provide prior to such amendment), against all Expenses (as defined below), liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith (including any threatened, pending or completed proceeding); *provided, however*, that, except as provided in Section 6.03 of these Bylaws with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board. "Expenses" means all reasonable attorneys fees, retainers, court costs, transcript costs, fees of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), travel expenses, duplicating costs, printing and binding costs, costs of preparation of demonstrative evidence and other courtroom presentation aids and devices, costs incurred in connection with document review, organization, imaging and computerization, telephone charges, postage, delivery service fees, and all other disbursements, costs or expenses of the type customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settling or otherwise participating in, a proceeding.

Section 6.02 Right to Advancement of Expenses. In addition to the right to indemnification conferred in Section 6.01 of these Bylaws, an indemnitee shall also have the right to be paid by the Corporation (and the Corporation shall advance) the expenses (including attorney's fees) incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); *provided, however*, that, if the DGCL requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without

limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section 6.02 or otherwise.

Section 6.03 Right of Indemnitee to Bring Suit. If a claim under Sections 6.01 or 6.02 of these Bylaws is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (a) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (b) any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that identification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VI or otherwise shall be on the Corporation.

Section 6.04 Non-Exclusivity of Rights. The rights to indemnification and to the advancement of expenses conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Certificate, these Bylaws, the Stockholders Agreement, agreement, vote of stockholders or disinterested directors or otherwise.

Section 6.05 Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Article VI with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

Section 6.06 Nature of Rights. The rights conferred upon indemnitees in this Article VI shall be contract rights and such rights shall continue as to an indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the indemnitee's heirs, executors and administrators. Any amendment, alteration or repeal of this Article VI that adversely affects any right of an indemnitee or it successors shall be prospective only and shall not limit or eliminate any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, alteration or repeal.

Section 6.07 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer or non-officer employee against any liability of any character asserted against or incurred by the Corporation or any such director, officer or non-officer employee, or arising out of any such person's Corporate Status, whether or not the Corporation would have the power to indemnify such person against such liability under the DGCL or the provisions of this Article VI.

Section 6.08 Stockholder Indemnitors; Subrogation. The Corporation hereby acknowledges that any indemnitee has or may have certain rights to indemnification, advancement of expenses and/or insurance provided by certain stockholders of the Corporation or their affiliates (collectively, the "Stockholder Indemnitors"). The Corporation hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to each indemnitee are primary and any obligation of the Stockholder Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by indemnitee are secondary), (ii) that it shall be required to advance the full amount of expenses incurred by indemnitee and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of these Bylaws (or any other agreement between the Corporation and indemnitee), without regard to any rights indemnitee may have against the Stockholder Indemnitors, and (iii) that it irrevocably waives, relinquishes and releases the Stockholder Indemnitors from any and all claims against the Stockholder Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by the Stockholder Indemnitors on behalf of indemnitee with respect to any claim for which indemnitee has sought indemnification from the Corporation shall affect the foregoing and the Stockholder Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of indemnitee against the Corporation. The Corporation and indemnitee agree that the Stockholder Indemnitors are express third party beneficiaries of the terms of this Section 6.08 of these Bylaws.

ARTICLE VII

OFFICES

Section 7.01. Registered Office. The registered office of the Corporation in the State of Delaware shall be as set forth in the Certificate until changed by the Board.

Section 7.02. Other Offices. The Corporation may maintain offices or places of business at such other locations within or without the State of Delaware as the Board may from time to time determine or as the business of the Corporation may require.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01. Dividends.

(a) Subject to any applicable provisions of law, the Certificate and the Stockholders Agreement, dividends upon the shares of the Corporation may be declared by the Board at any regular or special meeting of the Board and any such dividend may be paid in cash, property, or shares of the Corporation's stock.

(b) A member of the Board, or a member of any committee designated by the Board shall be fully protected in relying in good faith upon the records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of its officers or employees, or committees of the Board, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation, as to the value and amount of the assets, liabilities and/or net profits of the Corporation, or any other facts pertinent to the existence and amount of surplus or other funds from which dividends might properly be declared and paid.

Section 8.02. Reserves. There may be set apart out of any funds of the Corporation available for dividends such sum or sums as the Board from time to time may determine proper as a reserve or reserves for meeting contingencies, equalizing dividends, repairing or maintaining any property of the Corporation or for such other purpose or purposes as the Board may determine conducive to the interest of the Corporation, and the Board may similarly modify or abolish any such reserve.

Section 8.03. Execution of Instruments. Except as otherwise required by law or the Certificate, the Board or any officer of the Corporation authorized by the Board may authorize any other officer or agent of the Corporation to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation. Any such authorization must be in writing or by electronic transmission and may be general or limited to specific contracts or instruments.

Section 8.04. Voting as Stockholder. Unless otherwise determined by resolution of the Board, the President or any Vice President shall have full power and authority on behalf of the Corporation to attend any meeting of stockholders of any corporation in which the Corporation may hold stock, and to act, vote (or execute proxies to vote) and exercise in person or by proxy all other rights, powers and privileges incident to the ownership of such stock at any such meeting, or through action without a meeting. The Board may by resolution from time to time confer such power and authority (in general or confined to specific instances) upon any other person or persons.

Section 8.05. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board.

Section 8.06. Seal. It shall not be necessary to the validity of any instrument executed by any authorized officer or officers of the Corporation that the execution of such instrument be evidenced by the corporate seal, and all documents, instruments, contracts and writings of all kinds signed on behalf of the Corporation by any authorized officer or officers shall be as effectual and binding on the Corporation without the corporate seal, as if the execution of the same had been evidenced by affixing the seal of the Corporation and to attest the affixing by signature.

Section 8.07. Books and Records; Inspection. Except to the extent otherwise required by law, the books and records of the Corporation shall be kept at such place or places within or without the State of Delaware and in such form (including electronic form) as may be determined from time to time by the Board.

Section 8.08. Electronic Transmission. "Electronic transmission", as used in these Bylaws, means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 8.09. Severability. If any provision of these Bylaws shall be conclusively determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of these Bylaws shall not be affected thereby.

ARTICLE IX

AMENDMENT OF BYLAWS

Section 9.01. Amendment. Subject to the terms and conditions of the Stockholders Agreement and the Certificate, no provision of these Bylaws may be altered, amended or repealed in any respect, nor may any provision or bylaw inconsistent therewith be adopted, unless in addition to any other vote required by the Certificate of Incorporation, the Stockholders Agreement or otherwise required by law, such alteration, amendment, repeal or adoption is approved by, in addition to any other vote otherwise required by law, the affirmative vote of the holders of at least sixty-seven percent (67%) of the Voting Stock (as defined below), voting together as a single class. "Voting Stock" means the then outstanding shares of capital stock of the Corporation then entitled to vote generally in the election of directors.

ARTICLE X

CONSTRUCTION

Section 10.01. Construction. In the event of any conflict between the provisions of these Bylaws as in effect from time to time and the provisions of the Certificate as in effect from time to time, the provisions of such Certificate shall be controlling. In the event of any conflict between the

provisions of these Bylaws as in effect from time to time and the provisions of the Stockholders Agreement as in effect from time to time, the provisions of such Stockholders Agreement shall be controlling unless for them to do so would be in contravention of the requirements of the DGCL.

EXHIBIT H

Reorganized Holding Shareholder Agreement

STOCKHOLDERS AGREEMENT

AMONG

ROADHOUSE HOLDING INC.

AND

ITS STOCKHOLDERS

PARTY HERETO

DATED AS OF [_], 2016

TABLE OF CONTENTS

Article I

CERTAIN DEFINITIONS

Section 1.1	Definitions	1
Section 1.2	Headings; Table of Contents	8
Section 1.3	Singular, Plural, Gender	8
Section 1.4	Exhibits and Recitals	8
Section 1.5	Information	8
Section 1.6	Interpretation	9

Article II

REPRESENTATIONS AND WARRANTIES

Section 2.1	Authority; Enforceability	9
Section 2.2	No Breach	9
Section 2.3	Consents	10

Article III

SECURITY TRANSFERS

Section 3.1	Restrictions on Transfer	10
Section 3.2	Permitted Transfers	10
Section 3.3	Improper Transfer; Notice of Transfer	11
Section 3.4	Restrictive Legend	12
Section 3.5	Certificates	13

Article IV

RIGHTS OF CERTAIN STOCKHOLDERS

Section 4.1	Right of First Refusal	13
Section 4.2	Tag-Along Rights	15
Section 4.3	Drag-Along Rights	19
Section 4.4	Preemptive Rights	21
Section 4.5	Information	25
Section 4.6	Supermajority Approval of Certain Transactions	26
Section 4.7	Board of Directors and Board Observers	28

Article V

ADDITIONAL COVENANTS

Section 5.1	Confidentiality	31
Section 5.2	Issuance of Additional Securities	32
Section 5.3	Competing Activities	32
Section 5.4	No Effect Upon Lending Relationship	33
Section 5.5	Registration Rights.	33

Article VI

MISCELLANEOUS

Section 6.1	Entire Agreement; No Other Representations	49
Section 6.2	Modification or Amendment of Stockholders Agreement	49
Section 6.3	Waiver	~~49~~50
Section 6.4	Counterparts	~~49~~50
Section 6.5	Governing Law and Venue; Waiver of Jury Trial	50
Section 6.6	Notices and Waivers	51
Section 6.7	Certain Adjustments	52
Section 6.8	Specific Performance	52
Section 6.9	Severability	~~52~~53
Section 6.10	Assignment; Aggregation of Stock	53
Section 6.11	Termination	53
Section 6.12	Further Assurances	53
Section 6.13	Fees and Expenses	~~53~~54
Section 6.14	No Third-Party Beneficiaries	~~53~~54

Exhibit A	Form of Joinder Agreement
Exhibit B	Board of Directors

STOCKHOLDERS AGREEMENT

This Stockholders Agreement (as it may be amended, supplemented or otherwise modified from time to time, this "**Agreement**"), dated as of [_], 2016 (the "**Effective Date**"), is entered into by and among Roadhouse Holding Inc., a Delaware corporation (the "**Company**"), each of the other parties executing a counterpart signature page hereof or a joinder agreement hereto substantially in the form of Exhibit A hereto, in each case, whether on the date hereof or hereafter, and any other Person deemed to have executed this Agreement pursuant to the terms of the Plan (as defined below) (collectively, the "**Stockholders**").

W I T N E S S E T H:

WHEREAS, on August 8, 2016, the Company and certain of its debtor subsidiaries (the "**Debtors**") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

WHEREAS, on [_], 2016, the Debtors filed that certain First Amended Joint Chapter 11 Plan of Reorganization of Roadhouse Holding Inc. and its Affiliated Debtors (as amended and supplemented, the "**Plan**");

WHEREAS, on [_], 2016, the Bankruptcy Court entered an order confirming the Plan;

WHEREAS, the Plan provides for, among other things, the cancellation of all existing equity in the Company and the issuance to the Stockholders of the new Common Stock in the Company;

WHEREAS, in connection with the consummation of the transactions contemplated by the Plan, the Company and the Stockholders desire to enter into this Agreement to provide certain rights and obligations among them; and

WHEREAS, capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in Section 1.1.

ARTICLE I

CERTAIN DEFINITIONS

Section 1.1 Definitions

As used in this Agreement, the following terms shall have the following respective meanings:

"**Accepted Shares**" has the meaning specified in Section 4.1(a).

"**Affiliate**" of a Person means (a) such Person's controlling member, general partner, manager and investment manager and affiliates thereof; (b) any entity or managed account that is managed, advised or sub-advised by the same general partner, manager, investment manager or

investment advisor as such Person or a general partner, manager, investment manager or investment advisor affiliated with such general partner, manager, investment manager or investment advisor of such Person; and (c) any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the first Person, the general partner of such Person, investment manager of such Person or an affiliate of such Person, general partner or investment manager. The term "**control**" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

"**Agreement**" has the meaning specified in the Preamble.

"**Alternative Director**" has the meaning specified in Section 4.7(b)(i)(6).

"**Bankruptcy Code**" has the meaning specified in the Recitals.

"**Bankruptcy Court**" has the meaning specified in the Recitals.

"**Board**" means the Board of Directors of the Company.

"**Board Observer**" has the meaning specified in Section 4.7(g).

"**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to close.

"**By-Laws**" means the Company's Amended and Restated Bylaws, as amended on [_], 2016.

"**Carl Marks**" means Carl Marks Management Company, LLC, Carl Marks Strategic Investments, L.P. and Carl Marks Strategic Opportunities Fund II, L.P.

"**Change of Control**" means the consummation of any transaction, or series of related transactions, as a result of which the Persons who own 51% or more the Company immediately prior to such transaction or transactions cease to control the Company after the consummation thereof.

"**Charter**" means the Company's Amended and Restated Certificate of Incorporation, as amended on [_], 2016.

"**Common Stock**" means the common stock, par value $0.01 per share, of the Company, as constituted on the date hereof, any such stock into which such Common Stock shall have changed or any stock resulting from any reclassification of such Common Stock and any shares of any class of the Company's common stock issued with respect to shares of Common Stock by way of stock split, stock dividend or other recapitalization.

"**Company**" has the meaning specified in the Preamble.

"**Competitor**" means any Person ~~with~~that the Board determines in good faith to have a material interest, whether as an owner, principal, director, independent contractor or employee, in any business entity or venture that is in the business of operating a casual dining chain of restaurants; provided, however, that a Person's interest solely in publicly traded securities constituting not more than five percent (5%) of an issuer that is a Competitor or a Person's interest as a limited partner in~~, which interest is not more than five percent (5%) of the outstanding limited partnership interests of,~~ an investment fund that is a Competitor shall not, alone, cause such Person to be a Competitor.

"**Consent**" means any consent, approval, authorization, waiver, permit, grant, franchise, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any Person.

"**Debtors**" has the meaning specified in the Recitals.

"**Defaulting Drag-Along Stockholder**" has the meaning specified in Section 4.3(c).

"**Demand Date**" has the meaning specified in Section 5.5(b)(i).

"**Demand Registration**" has the meaning specified in Section 5.5(b)(i).

"**Designated Director**" has the meaning specified in Section 4.7(b).

"**Designating Stockholder**" has the meaning specified in Section 4.7(b).

"**Designating Threshold**" has the meaning specified in Section 4.7(b)(i)(1).

"**Drag-Along Purchaser**" has the meaning specified in Section 4.3(a).

"**Drag-Along Sale**" has the meaning specified in Section 4.3(a).

"**Drag-Along Sellers**" has the meaning specified in Section 4.3(a).

"**Drag-Along Stockholders**" has the meaning specified in Section 4.3(a).

"**Effective Date**" has the meaning specified in the Preamble.

"**Election Period**" has the meaning specified in Section 4.1.

"**Eligible Offering**" has the meaning specified in Section 4.4(c).

"**Eligible Shares**" has the meaning specified in Section 4.1(d).

"**Eligible Transfer Closing Date**" has the meaning specified in Section 4.1(e).

"**Equity Incentive Plan**" means the equity incentive plan that may be established by the Board on or after the date hereof in accordance with this Agreement.

"**Equity Securities**" means any class of capital stock, including the Common Stock or any preferred stock, of the Company, however described or whether voting or non-voting, and all securities convertible or exercisable into or exchangeable for or rights to purchase any such capital stock of the Company, if any, including any Equity Security Equivalent and any and all other equity securities of the Company or securities convertible into or exchangeable for such security or issued as a distribution with respect to or in exchange for such securities. For purposes of Section 4.4 and Section 4.6, the defined term "Equity Securities" shall also include Equity Securities of the Subsidiaries of the Company.

"**Equity Security Equivalent**" means any option, warrant, right, call or similar security or right exercisable into, exchangeable for, or convertible into Equity Securities. For purposes of Section 4.4 and Section 4.6, the defined term "Equity Security Equivalents" shall also include Equity Security Equivalents of the Subsidiaries of the Company.

"**Excess Preemptive Securities**" has the meaning specified in Section 4.4(b).

"**Excess Preemptive Stockholder**" has the meaning specified in Section 4.4(b).

"**Exercising Holder**" has the meaning specified in Section 4.1(b).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Excluded Issuances**" has the meaning specified in Section 4.4(c)(vi).

"**Family Member**" means any person's spouse, minor child, adult child, stepchild, adopted child, brother, sister, parent, adoptive parent, stepparent, stepbrother, stepsister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, grandchild or grandparent.

"**First Refusal Notice**" has the meaning specified in Section 4.1.

"**First Refusal Remaining Shares Notice**" has the meaning specified in Section 4.1(b).

"**GAAP**" has the meaning specified in Section 4.5(a)(i).

"**Governmental Authority**" means any international, supranational or national government, any state, provincial, local or other political subdivision thereof; any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government; any court, tribunal or arbitrator; any self-regulatory organization; or any securities exchange or quotation system.

"**GSO**" means GSO Capital Partners, LP, FS Investment Corporation I, FS Investment Corporation II and FS Investment Corporation III.

"**GSO Director**" has the meaning set forth in Section 4.7(b)(i)(2).

"**Holder**" has the meaning set forth in Section 5.5(a).

"**Inclusion Notice**" has the meaning specified in Section 4.2(c).

"**Independent Director**" has the meaning specified in Section 4.7(b)(i)(5).

"**Initial Public Offering**" means an initial Public Offering commenced by the Company.

"**Initiating Holder**" has the meaning specified in Section 5.5(b)(i).

"**Joinder Agreement**" has the meaning specified in Section 3.2(a).

"**Kelso**" means Kelso & Company, Kelso Investment Associates VIII, L.P. and KEP VI, LLC.

"**Major Stockholder**" has the meaning specified in Section 4.5(a).

"**Majority Stockholder**" has the meaning specified in Section 4.3(a).

"**Marblegate**" means Marblegate Asset Management, LLC, Marblegate Special Opportunities Master Fund, L.P and P Marblegate Ltd.

"**Minimum Registration Amount**" has the meaning specified in Section 5.5(b).

"**Non-Employee Holders**" has the meaning specified in Section 5.3.

"**Non-Selling Designating Holder**" has the meaning specified in Section 4.1.

"**Non-Transferring Designating Stockholders**" has the meaning specified in Section 4.2.

"**Notice**" has the meaning specified in Section 6.6(a).

"**Notice of Acceptance**" has the meaning specified in Section 4.1(a).

"**Offer**" has the meaning specified in Section 4.1.

"**Offered Shares**" has the meaning specified in Section 4.1.

"**Offer Price**" has the meaning specified in Section 4.1.

"**Option Period**" has the meaning specified in Section 4.1(a).

"**Original Equity Securities**" means the Equity Securities issued on the Effective Date.

"**Oversubscribing Holder**" has the meaning specified in Section 4.1(b).

"**Oversubscription Notice**" has the meaning specified in Section 4.1(b).

"**own**" means to own, hold or otherwise exercise investment discretion over the applicable Equity Securities. The terms "**owner**" and "**ownership**" shall have meanings correlative of the foregoing.

"**Permitted Transfer**" means a Transfer by a Stockholder (a) in the case of a Stockholder that is a natural person, by gift to his or her Family Member or to any entity of which such person or persons are the sole beneficiaries, *provided* that with respect to all such Transfers by a Stockholder to any such Person, voting power of such Equity Securities, if any, is retained by one or more of the natural persons enumerated in this clause (a); (b) in the case of any Stockholder that is a trust, to a successor trustee or trustees of any trust established for one or more of the persons specified in clause (a) above; (c) upon the death of a Stockholder who is a natural person, to such Stockholder's heirs, executors, administrators, testamentary trustees, legatees or beneficiaries; (d) to any Affiliate of such Stockholder (including if consummated in a trade through a financial intermediary); (e) in the case of any Stockholder that is an investment fund, to the limited or general partners or members of such fund; (f) in the case of the winding up or liquidation of a Stockholder other than a natural person, to its Affiliates; or (g) in the case of a Designating Stockholder, to any other Designating Stockholder.

"**Permitted Transferee**" means the transferee in a Permitted Transfer.

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

"**Piggyback Holder**" has the meaning specified in Section 5.5(b).

"**Plan**" has the meaning specified in the Recitals.

"**Preemptive Maximum**" has the meaning specified in Section 4.4(b).

"**Preemptive Notice**" has the meaning specified in Section 4.4(d).

"**Preemptive Notice Period**" has the meaning specified in Section 4.4(d).

"**Preemptive Percentage Allocation**" has the meaning specified in Section 4.4(a).

"**Preemptive Purchase Notice**" has the meaning specified in Section 4.4(d).

"**Preemptive Right**" has the meaning specified in Section 4.4(a).

"**Preemptive Right Holder**" has the meaning specified in Section 4.4(a).

"**Preemptive Securities**" has the meaning specified in Section 4.4(a).

"**Primary Shares**" means the authorized but unissued Equity Securities which are being offered in a Public Offering or any Equity Securities that are held in treasury.

"**Pro Rata Offered Shares**" has the meaning specified in Section 4.1(a).

"**Pro Rata Oversubscription Shares**" has the meaning specified in Section 4.1(b).

"**Prohibited Transfer**" has the meaning set forth in Section 4.2(h).

"**Proposed Purchaser**" has the meaning specified in Section 4.2.

"**Proprietary Information**" has the meaning specified in Section 5.1.

"**Public Offering**" means the completion of a public sale of Equity Securities pursuant to a registration statement which has become effective under the Securities Act, or pursuant to a registration statement, prospectus or similar document which has been filed in accordance with and/or become effective under the laws of any jurisdiction outside of the United States or otherwise pursuant to and in compliance with the laws of a jurisdiction outside of the United States, excluding in any event a registration form, prospectus or similar document relating solely to employee benefit plans or which does not permit secondary sales and in the case of any registration statement under the Securities Act, which does not include substantially the same information as would be required in a Form S-1 or S-3 Registration Statement (or any successor forms) covering Equity Securities.

"**Remaining Shares**" has the meaning specified in Section 4.1(b).

"**Reorganized Borrower**" means Roadhouse Holding Inc. as of the Effective Date.

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

"**SEC**" means the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Selling Holders Counsel**" has the meaning specified in Section 5.5(f).

"**Selling Percentage**" has the meaning specified in Section 4.2.

"**Selling Stockholder**" has the meaning specified in Section 4.1.

"**Shelf Registration Statement**" has the meaning specified in Section 5.5(i)(i).

"**Special Situations Supermajority**" has the meaning specified in Section 4.6(c~~)~~(ii~~)~~).

"**Stockholders**" has the meaning specified in the Preamble.

"**Stockholder Representations**" has the meaning specified in Section 4.2(d).

"**Subject Securities**" has the meaning specified in Section 4.2.

"**Subsidiaries**" means any other Person (a) in which the Company owns, directly or indirectly, fifty percent (50%) or more of the securities or other ownership interests of such other Person, (b) in which the Company owns, directly or indirectly, securities or other ownership interests having ordinary voting power to elect a majority of the board of managers/directors, or other

persons performing similar functions, of such other Person or (c) the management of which is otherwise controlled, directly or indirectly, by the Company.

"**Subsidiary Board**" has the meaning set forth in Section 4.7(i).

"**Supermajority**" has the meaning specified in Section 4.6.

"**Tag-Along Election Period**" has the meaning specified in Section 4.2(a).

"**Tag-Along Holder**" has the meaning specified in Section 4.2(a).

"**Tag-Along Notice**" has the meaning specified in Section 4.2.

"**Tag-Along Notice of Election**" has the meaning specified in Section 4.2(a).

"**Tag-Along Securities**" has the meaning specified in Section 4.2(a).

"**Third-Party**" has the meaning specified in Section 4.1(d).

"**Transactions**" means the transactions contemplated by this Agreement and any respective ancillary agreements hereto.

"**Transfer**" means any sale, transfer, assignment, conveyance or other disposition, including by merger, operation of law, bequest or pursuant to any domestic relations order, whether voluntarily or involuntarily, other than a sale, transfer, assignment, conveyance or other disposition by or to the Company; *provided, however*, the term Transfer shall also include indirect Transfers by an owner thereof if the Equity Securities constitute a majority of the assets (directly or indirectly) of the Person whose equity is being transferred.

"**Transfer Closing Date**" has the meaning specified in Section 4.2(e).

"**Transferee**" means any Person who acquires Equity Securities from a Stockholder and who is not a Permitted Transferee.

"**Transferring Stockholder**" has the meaning specified in Section 4.2.

"**Voting Securities**" means, at any time, any class of Equity Securities which are then entitled to vote generally in the election of directors or on any other matter.

Section 1.2 Headings; Table of Contents

Headings and table of contents should be ignored in constructing this Agreement.

Section 1.3 Singular, Plural, Gender

References to one gender include all genders and references to the singular include the plural and vice versa.

Section 1.4 Exhibits and Recitals

References to this Agreement shall include any Exhibits, Annexes and Recitals and references to Sections, Annexes and Exhibits are to Sections of and Exhibits and Annexes to this Agreement.

Section 1.5 Information

References to books, records or other information mean books, records or other information in any form including paper, electronically stored data, magnetic media, film and microfilm.

Section 1.6 Interpretation

Whenever the words "**include**," "**includes**" or "**including**" are used in this Agreement, they shall be deemed to be followed by the words "**without limitation**." This Agreement shall be construed as if it is drafted by all the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement if an ambiguity or question of intent or interpretation arises. If the last day of performance of any obligation hereunder is not a Business Day, then the deadline for such performance or the expiration of the applicable period or date shall be extended to the next Business Day. Any voting or other stockholder ownership percentages and thresholds referenced in this Agreement shall be calculated for purposes of this Agreement without regard to any dilution from equity issued or granted in accordance with the terms of any equity option or equity purchase plan or agreement or other benefit or management incentive plans approved by the Board. The term "**beneficial owner**" (and any derivation thereof) shall be interpreted to have the meaning contemplated by Rule 13d-3 of the Exchange Act.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Each of the parties hereby severally (and not jointly) represents and warrants to each of the other parties as follows:

Section 2.1 Authority; Enforceability

Such party has the legal capacity or full power and authority (corporate or otherwise) to execute and deliver this Agreement and to perform its obligations hereunder. Such party (in the case of parties that are not natural persons) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, formation or organization, and the execution of this Agreement and the consummation of the Transactions have been duly and validly authorized by all necessary action. No other act or proceeding, corporate or otherwise, on its part is necessary to authorize the execution and delivery of this Agreement or the consummation of any of the Transactions. This Agreement has been duly executed by such party and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of this Agreement, subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws relating to or affecting the rights of creditors generally and to the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or of equity).

Section 2.2 No Breach

Neither the execution of this Agreement nor the performance by such party of its obligations hereunder nor the consummation of the Transactions does or will:

(a) in the case of parties that are not natural persons, violate or conflict with its certificate of incorporation, bylaws or other organizational documents of such party;

(b) violate, conflict with or result in the breach or termination of, or otherwise give any other person the right to accelerate, renegotiate or terminate or receive any payment or constitute a default or an event of default (or an event which with notice, lapse of time, or both, would constitute a default or event of default) under the terms of any material contract or agreement to which it is a party or by which it or any of its assets or operations are bound or affected; or

(c) constitute a violation by such party of any laws, rules or regulations of any governmental, administrative or regulatory authority or any judgments, orders, rulings or awards of any court, arbitrator or other judicial authority or any Governmental Authority.

Section 2.3 Consents

No Consent is required to be made or obtained by such party, other than those which have been made or obtained, in connection with (a) the execution or enforceability of this Agreement or (b) the consummation of any of the Transactions.

ARTICLE III

SECURITY TRANSFERS

Section 3.1 Restrictions on Transfer

During the term of this Agreement, each Stockholder agrees that it will not Transfer any Equity Security, except as permitted by or in accordance with this Agreement. The Company shall issue stop-transfer instructions to its transfer agent with respect to any purported Transfer in violation of this Agreement. A transferring Stockholder will cause any proposed purchaser, pledgee, or transferee of Equity Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement. The Stockholders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Equity Securities in order to implement the restrictions on transfer set forth in this Agreement.

Section 3.2 Permitted Transfers

Subject to all applicable laws, the following Transfers of Equity Securities are permitted:

(a) (i) a Transfer that is a Permitted Transfer of Equity Securities by a Stockholder to one or more of its Permitted Transferees or (ii) a Transfer by a financial intermediary to a Preemptive Right Holder or its Affiliate as contemplated by Section 4.4(h) hereof; *provided* that, if not already a party hereto, any such Permitted Transferee or Transferee executes and delivers to the Company a Joinder Agreement substantially in the form of Exhibit A hereto (a "**Joinder**

Agreement"); *provided*, *however*, no Person acting as a financial intermediary as contemplated by clause (d) of the definition of "**Permitted Transfer**" shall be required to execute a Joinder Agreement in connection with acting in such capacity;

(b) a Transfer of Equity Securities by a Stockholder as a Tag-Along Holder in accordance with Section 4.2 or a Transfer in accordance with Section 4.3;

(c) a Transfer of Equity Securities by a Stockholder to any other Person so long as the Transferee executes and delivers to the Company a Joinder Agreement; *provided* that Section 4.1 is complied with and if Section 4.2 is applicable to such Transfer, the Transfer must also comply with the provisions of Section 4.2 to the extent such Transfer is to a Third-Party;

(d) a Transfer of Equity Securities by a Stockholder pursuant to an effective registration statement under the Securities Act; or

(e) a Transfer (including by way of repurchase or redemption) of Equity Securities to the Company.

Notwithstanding anything to the contrary contained herein: (i) no Equity Securities shall be Transferred (other than pursuant to Section 3.2(d)) if, upon consummation of such Transfer, the Company would be required by the Securities Act or the Exchange Act, including Section 12(g) of the Exchange Act, or any other foreign, federal, state or local securities laws, to register any class of its Equity Securities with the SEC or other similar regulatory authority or to file periodic reports under Section 13 of the Exchange Act or other similar regulatory authority by virtue of such Transfer and (ii) no Equity Securities shall be Transferred (other than pursuant to Section 3.2(b) or Section 3.2(d)) to any Person that the Board in good faith determines is a Competitor.

Section 3.3 Improper Transfer; Notice of Transfer

Any attempt to Transfer any Equity Securities not in accordance with this Agreement shall be null and void *ab initio* and the Company will not give nor permit the Company's transfer agent to give any effect to such attempted Transfer in its records. The transferring Stockholder shall provide the Company with any information reasonably requested by the Company in order to facilitate the confirmation by the Company that the Transfer is in accordance with this Agreement. Before any proposed Transfer of Equity Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the transferring Stockholder shall give notice to the Company of such Holder's intention to effect such Transfer. Each such notice shall describe the manner of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Stockholder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; or (ii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Equity Securities may be effected without registration under the Securities Act, whereupon the transferring Stockholder shall be entitled to Transfer such Equity Securities in accordance with the terms of the notice given by the Stockholder to the Company and in accordance with the other terms of this Agreement. The Company will not require such a

legal opinion (x) in any transaction in compliance with Rule 144; or (y) in any transaction in which such Holder distributes Equity Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Agreement.

Section 3.4 Restrictive Legend

Each certificate, if issued, representing Equity Securities and held by a Stockholder will bear a legend substantially similar to the following (with such additions thereto or changes therein as the Company may be advised by counsel are required by law or necessary to give full effect to this Agreement):

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON [_], 2016 PURSUANT TO THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF ROADHOUSE HOLDING INC. AND ITS AFFILIATED DEBTORS, DATED AS OF SEPTEMBER 28, 2016 AND CONFIRMED BY THE BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, ON [_], 2016. THESE SECURITIES WERE ISSUED PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED, (THE "ACT") PROVIDED BY SECTION 1145 OF THE BANKRUPTCY CODE, 11 U.S.C. § 1145, AND HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAW, AND TO THE EXTENT THAT THE HOLDER OF THESE SECURITIES IS AN "UNDERWRITER" AS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE, THESE SECURITIES MAY NOT BE TRANSFERRED, OFFERED, ASSIGNED, SOLD, DONATED, PLEDGED, HYPOTHECATED, ENCUMBERED OR OTHERWISE DISPOSED OF UNLESS (I) THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR SUCH APPLICABLE STATE SECURITIES LAWS OR (II) REGISTRATION UNDER THE ACT OR SUCH APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED IN CONNECTION WITH SUCH TRANSFER. THE SECURITIES REPRESENTED BY THIS CERTIFICATE CANNOT BE TRANSFERRED IN A TRANSACTION WHICH WOULD CAUSE THE COMPANY TO BE SUBJECT TO THE REPORTING REQUIREMENTS OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.
>
> THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO (I) SIGNIFICANT RESTRICTIONS ON TRANSFER PURSUANT TO THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND (II) THE TERMS AND CONDITIONS OF A STOCKHOLDERS AGREEMENT DATED AS OF [_], 2016, AS THE SAME MAY BE AMENDED OR MODIFIED FROM TIME TO TIME PURSUANT TO THE TERMS THEREOF. THE STOCKHOLDERS AGREEMENT CONTAINS, AMONG OTHER THINGS, SIGNIFICANT RESTRICTIONS ON TRANSFER OF THE SECURITIES OF THE COMPANY.

COPIES OF THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND THE STOCKHOLDERS AGREEMENT ARE ON FILE AT THE OFFICE OF THE COMPANY AND WILL BE FURNISHED WITHOUT CHARGE TO THE HOLDER OF SUCH SECURITY UPON WRITTEN REQUEST.

Section 3.5 Certificates

Subject to the limitations on Transfer set forth in this Agreement, certificates representing Equity Securities shall be transferable or interchangeable upon presentation at the office of the Company or its transfer agent, if any, properly endorsed or accompanied by an instrument of transfer and executed by the Stockholder or his or her authorized attorney, together with the payment of any tax or governmental charges imposed upon the Transfer of any such certificates.

ARTICLE IV

RIGHTS OF CERTAIN STOCKHOLDERS

Section 4.1 Right of First Refusal

In the event that (x) a Designating Stockholder negotiates to Transfer five percent (5.0%) or more of its Equity Securities, other than pursuant to Section 3.2(a), (b), (d) or (e), such Designating Stockholder (for purposes of this Section 4.1 such Stockholder shall be referred to as the "**Selling Stockholder**") or (y) a Designating Stockholder, as the Selling Stockholder, negotiates to Transfer to another Designating Stockholder a number of Equity Securities (the Equity Securities in each of (x) and (y) referred to as the "**Offered Shares**") that will result in the Designated Director of the Transferee Designating Stockholder being entitled to cast a majority or more of the votes of the Board (each of (x) and (y) referred to as an "**Offer**"), the Selling Stockholder shall give prompt written notice (a "**First Refusal Notice**") to each Designating Stockholder that is not a Selling Stockholder (each, a "**Non-Selling Designating Holder**") and the Company of its intention to Transfer the Offered Shares. The Selling Stockholder agrees not to consummate any such Transfer until a date that is ten (10) Business Days after the date on which all Non-Selling Designating Holders have received the applicable First Refusal Notice. The First Refusal Notice shall identify (i) the number and type of Offered Shares, (ii) the purchase price per share of each type of Offered Share at which the Selling Stockholder wishes to sell and form of consideration therefor (the "**Offer Price**"), (iii) the identity of the proposed Transferee, (iv) the intended date of the Proposed Transfer, and (v) all other material terms and conditions of the proposed Transfer.

(a) For a period of five (5) Business Days (the "**Option Period**") following the receipt of the First Refusal Notice, each Non-Selling Designating Holder shall have the irrevocable right and option (but not the obligation) to elect to purchase, at the Offer Price and on the same terms and conditions as set forth in the First Refusal Notice, up to such portion of the Offered Shares (each such portion, each Non-Selling Designating Holder's "**Pro Rata Offered Shares**") that equals the product of (i) the number of Offered Shares times (ii) a fraction, the numerator of which is the number of shares of such type of Equity Securities included in the Offered Shares held by such Non-Selling Designating Holder, and the denominator of which is the sum of all shares of such type of Equity Securities included in the Offered Shares held by all

Non-Selling Designating Holders. The rights of each Non-Selling Designating Holder set forth in this Section 4.1(a) are exercisable by delivery, within the Option Period, by such Non-Selling Designating Holder of an irrevocable written notice to the Selling Stockholder and the Company (the "**Notice of Acceptance**") of such Non-Selling Designating Holder's commitment to purchase all or a portion of its Pro Rata Offered Shares (the number and type of shares it so elects to purchase, such Non-Selling Designating Holder's "**Accepted Shares**") and all or any portion of any Remaining Shares. Failure by any Non-Selling Designating Holder to give the Notice of Acceptance within the Option Period shall be deemed an election by such Non-Selling Designating Holder not to purchase its Pro Rata Offered Shares or any Remaining Shares with respect to the applicable First Refusal Notice.

(b) Each Non-Selling Designating Holder that delivers, within the Option Period, a Notice of Acceptance (an "**Exercising Holder**") specifying its election to purchase all of its Pro Rata Offered Shares, shall also have the right to purchase, at the Offer Price, a portion (such portion, its "**Pro Rata Oversubscription Shares**") of the Offered Shares that the other Non-Selling Designating Holders have elected not to purchase, if any (the "**Remaining Shares**") (any Exercising Holder exercising its right to purchase its Pro Rata Oversubscription Shares is referred to as an "**Oversubscribing Holder**"). An Oversubscribing Holder's Pro Rata Oversubscription Shares shall equal the product of (i) the Remaining Shares *times* (ii) a fraction, the numerator of which is the number of shares of such type of Equity Securities included in the Remaining Shares held by such Oversubscribing Holder prior to its acquisition of any Offered Shares, and the denominator of which is the aggregate number of shares of such type of Equity Securities included in the Remaining Shares held by all Oversubscribing Holders prior to their acquisition of any Offered Shares. The Company shall deliver a notice (a "**First Refusal Remaining Shares Notice**") to all Exercising Holders of the number of Remaining Shares, if any, as promptly as practicable following the date upon which such Remaining Shares are known. Each Exercising Holder shall, if it desires to do so, become an Oversubscribing Holder by specifying in its Notice of Acceptance or another irrevocable written notice (each such notice delivered by an Oversubscribing Holder, an "**Oversubscription Notice**") to the Selling Stockholders, prior to the expiration of the Election Period, its election to purchase its Pro Rata Oversubscription Shares. The procedure set forth in this Section 4.1(b) will be repeated until elections to purchase all of the Offered Shares have been exercised or each of the Oversubscribing Holders no longer desires to exercise its right to purchase its Pro Rata Oversubscription Shares.

(c) If any Non-Selling Designating Holder has elected to purchase Offered Shares hereunder, the Transfer of such Offered Shares shall be consummated as soon as practical, and the parties will in good faith negotiate the sale agreement for such Offered Shares after the delivery of the Notice of Acceptance and/or Oversubscription Notice(s), if any, to the Selling Stockholder, but the parties shall use commercially reasonable efforts to consummate such transaction on the same terms and conditions set forth in the First Refusal Notice (subject to Section 4.1(f)) within twenty (20) Business Days after the First Refusal Notice.

(d) If all notices required to be given pursuant to this Section 4.1 have been duly given, and the Non-Selling Designating Holders have not elected to purchase all of the Offered Shares at the Offer Price and on the same terms and conditions as set forth in the First Refusal Notice, or any purchases of Pro Rata Offered Shares or Pro Rata Oversubscription Shares, as

applicable, agreed to by any Exercising Holders or Oversubscribing Holders, as applicable, are not consummated in accordance with Section 4.1(c) (and any such failures to consummate such purchases are not as a result of any breach hereof by the Selling Stockholder), then the Selling Stockholder shall have the right, subject to Section 4.2, to enter into and consummate, subject to Section 4.1(e), an agreement to Transfer to a third-party not Affiliated with any Stockholder (a "**Third-Party**") or any Designating Stockholder, as applicable, the Offered Shares remaining unsold under this Section 4.1 (the "**Eligible Shares**") at a price not less than the Offer Price and on terms and conditions no less favorable to the Selling Stockholder, economically or otherwise, than as set forth in the First Refusal Notice; *provided* that simultaneously with any such Transfer to a Third-Party, such Third-Party executes and delivers to the Company, for the benefit of the Company and all Stockholders, a Joinder Agreement; *provided*, *further*, that such Third-Party was identified in the applicable First Refusal Notice relating to such Eligible Shares. If the Transfer to a Third-Party or Designating Stockholder pursuant to this Section 4.1(d) is not consummated pursuant to the terms of the immediately preceding sentence and within the time periods described in the next paragraph (e), the Selling Stockholder will not effect the Transfer of any of the Offered Shares without commencing *de novo* the procedures set forth in this Section 4.1.

(e) The closing of the sale of any Eligible Shares that are being Transferred under this Section 4.1 to any Third-Party or Designating Stockholder shall take place at the Company's principal executive offices (or such other place as the Selling Stockholder and the applicable purchaser shall agree) on a date (the "**Eligible Transfer Closing Date**") no later than sixty (60) days following the date of delivery of the First Refusal Notice (or if such date is not a Business Day, the first day thereafter that is a Business Day) at 10:00 a.m., local time. On the Eligible Transfer Closing Date, the parties shall take all actions necessary (including cooperation in obtaining any required governmental Consents) to convey such Equity Securities to be Transferred in accordance with this Agreement, free of all liens and encumbrances, other than pursuant to this Agreement and under the Charter.

(f) If the consideration proposed to be paid for the Offered Shares is in property, services or other non-cash consideration, then (i) the Selling Stockholder shall notify the Company of such fact prior to the issuance of any First Refusal Notice with respect thereto, (ii) the fair market value of the consideration shall be as determined in good faith by the Board, with the Selling Stockholder being informed by the Company of such determination within thirty (30) days of receipt of such notification, and (iii) such fair market value (as determined by the Board) shall be set forth in the First Refusal Notice. If any Exercising Holder cannot for any reason pay for the Offered Shares in the same form of non-cash consideration, such Exercising Holder may pay the cash value equivalent thereof, as determined in good faith by the Board and as set forth in the First Refusal Notice.

(g) If any Selling Stockholder becomes obligated to sell any Offered Shares to any Exercising Holder under this Agreement and fails to deliver such Offered Shares in accordance with the terms of this Agreement, such Exercising Holder may, at its option, in addition to all other remedies it may have, send to such Selling Stockholder the purchase price for such Offered Shares as is herein specified and request that the Company effect, and the Company shall then effect, such transfer in the name of a Exercising Holder on the Company's books and any certificates, instruments, or book entry representing the Offered Shares to be sold.

Section 4.2 Tag-Along Rights

If, following the application of Section 4.1 (wherein the Transferring Stockholder has already satisfied any obligations as a Selling Stockholder under Section 4.1 with respect to the Subject Securities) , a Designating Stockholder or group of Designating Stockholders (the "**Transferring Stockholder**"), proposes to Transfer (other than pursuant to Section 3.2(a), (b), (d) or (e) or pursuant to Section 4.1(c)) an aggregate of more than fifty percent (50%) of any class of Equity Securities held by such Designating Stockholder and its Affiliates in one or a series of related transactions (the "**Subject Securities**") to a Person or group of affiliated Persons (other than a Designated Stockholder or Affiliate thereof) (the "**Proposed Purchaser**"), the Transferring Stockholder shall give written notice (a "**Tag-Along Notice**") of such proposed Transfer to the other Designating Stockholders (collectively, the "**Non-Transferring Designating Stockholders**") and the Company, at least fifteen (15) Business Days prior to the consummation of such proposed Transfer, setting forth (i) the total number of each class of Equity Securities offered to be Transferred to the Proposed Purchaser and the percentage (rounded to the nearest one hundredth of a percent) of such class of the Transferring Stockholder's Equity Securities that constitutes the Subject Securities (such percentage, the "**Selling Percentage**"), (ii) the amount and form of consideration to be received for each share of each class of such Equity Securities by the Transferring Stockholder, (iii) the identity of the Proposed Purchaser and the Transferring Stockholder(s), (iv) all other material terms and conditions of the proposed Transfer, including the form of proposed agreement (if completed at the time that the Tag-Along Notice is provided), (v) the expected date of the proposed Transfer and (vi) that each such Non-Transferring Designating Stockholder shall have the right to elect to Transfer up to a percentage of each class of such Non-Transferring Designating Stockholder's Equity Securities equal to the applicable Selling Percentage to the Proposed Purchaser at the same price and on the same terms as described in the Tag-Along Notice relating to such Transfer.

(a) Upon receipt of a Tag-Along Notice, each Non-Transferring Designating Stockholder has the option (but not the obligation) to Transfer up to the applicable Selling Percentage of each class of Equity Securities held by it at the same price per security of such class of Subject Security and pursuant to the same terms and conditions with respect to payment for such class of Subject Security as agreed to by the Transferring Stockholder, by sending written notice (a "**Tag-Along Notice of Election**") to the Transferring Stockholder within five (5) Business Days following the receipt of the Tag-Along Notice (the "**Tag-Along Election Period**"), indicating the number of Equity Securities it elects to Transfer up to the applicable Selling Percentage held by it (its "**Tag-Along Securities**") in the same transaction (each such Non-Transferring Stockholder exercising its option under this Section 4.2(a), a "**Tag-Along Holder**"). Failure by any Non-Transferring Designating Stockholder to provide a Tag-Along Notice of Election within the Tag-Along Election Period with respect to any proposed transaction shall be deemed an election by such Non-Transferring Designating Stockholder to not Transfer any of its Tag-Along Securities in such transaction.

(b) If one or more Non-Transferring Designating Stockholders elects to participate and become a Tag-Along Holder by delivering a Tag-Along Notice of Election prior to the expiration of the Tag-Along Election Period, the Transferring Stockholder shall use all reasonable efforts to cause the Proposed Purchaser to agree to acquire all of the Subject Securities and each such Tag-Along Holder's Tag-Along Securities, upon the same terms and

conditions set forth in the Tag-Along Notice. If the Proposed Purchaser is unwilling or unable to acquire all of such Subject Securities and Tag-Along Securities upon such terms, then the Transferring Stockholder may elect either to cancel such Transfer or to proceed with such Transfer by reducing the number of each class of Subject Securities and aggregate Tag-Along Securities such that the total number of each class of Subject Securities to be sold by the Transferring Stockholder and the aggregate number of such class of Tag-Along Securities to be sold by all Tag-Along Holders does not collectively exceed the total number of such class of Equity Securities that the Proposed Purchaser is willing to purchase. Specifically, pursuant to the preceding sentence, the Transferring Stockholder and each Tag-Along Holder shall be entitled to Transfer the number of each class of Equity Securities derived by multiplying the number of such class of Equity Securities that the Proposed Purchaser is willing to purchase on such terms by a fraction, the numerator of which is (x) in the case of the Transferring Stockholder, the number of such class of Equity Securities included in the Subject Securities and (y) in the case of a Tag-Along Holder, the number of such class of Equity Securities included in the Tag-Along Securities of such Tag-Along Holder, and the denominator of which is the sum of (A) the number of such class of Equity Securities included in the Subject Securities, plus (B) the aggregate number of such class of Equity Securities included in the Tag-Along Securities of all Tag-Along Holders.

(c) Within five (5) days after the expiration of the Tag-Along Election Period, the Transferring Stockholder shall notify each Tag-Along Holder in writing (the "**Inclusion Notice**") of the number of Equity Securities held by such Tag-Along Holder that will be included in the Transfer in accordance with Section 4.2(b) and Section 4.2(g) and the date on which the Transfer is anticipated to be consummated, which shall be no earlier than the date that is fifteen (15) Business Days after the date of delivery of the Tag-Along Notice, or alternatively shall notify each Tag-Along Holder in writing if the applicable transaction has been cancelled by the Transferring Stockholder pursuant to Section 4.2(b).

(d) Each Tag-Along Holder electing to Transfer any or all of its Equity Securities pursuant to this Section 4.2 shall deliver to the Proposed Purchaser, or to the Transferring Stockholder for delivery to the Proposed Purchaser, the certificates, if issued, representing such Tag-Along Holder's Equity Securities to be Transferred in genuine and unaltered form, duly endorsed in blank or accompanied by duly executed transfer powers in blank, with all requisite transfer stamps, if any, attached thereto or other instruments sufficient to Transfer such Equity Securities. In addition, the right of each Tag-Along Holder to participate in such Transfer shall be conditioned upon such Tag-Along Holder's execution of such documents and agreements as the Proposed Purchaser may require; *provided however*, that the terms of such documents and agreements shall be no more onerous than (and in all cases substantially similar to) those set forth in the documents and agreements to be executed by the Transferring Stockholder in connection with the Transfer and no Tag-Along Holder shall be required to make any representation, warranty or agreement in any documentation related to the Transfer that is less favorable than the representations, warranties and agreement agreed to by the Transferring Stockholder; *provided further*, that no Tag-Along Holder shall be required to indemnify the Proposed Purchaser for an aggregate amount in excess of the lesser of (x) the total consideration received by such Tag-Along Holder in connection with such Transfer and (y) except as to any customary representations with respect to itself as to organization, authorization, enforceability, capitalization, ownership of the Equity Securities being Transferred by it, and the

non-contravention of its organizational documents or material agreements (collectively, the "**Stockholder Representations**") (as to which the limit in clause (x) shall apply), that portion of the total liabilities that equals the proportion of the total consideration received by such Tag-Along Holder relative to the total consideration received by all Stockholders in such Transfer. In addition, the Tag-Along Holder shall not be required to make any representations or warranties other than the Stockholder Representations with respect to itself which, in each case, shall be made severally by each Tag-Along Holder and the Transferring Stockholder and not jointly, and any indemnification to be provided by any the Tag-Along Holder as well as any costs and expenses of the Transferring Stockholder in connection with the proposed transaction shall be borne by the Transferring Stockholder and the Tag-Along Holders on a *pro rata* basis (several and not joint) in accordance with each Stockholder's proportion of the total consideration received or receivable by all Stockholders in the Transfer, except for indemnification in connection with the Stockholder Representations provided by such Tag-Along Holder with respect to itself which will be provided solely by such Tag-Along Holder and any such indemnification shall be limited to an escrow.

(e) All Transfers of Equity Securities to the Proposed Purchaser pursuant to this Section 4.2 shall be consummated contemporaneously on a date no later than sixty (60) days following the date of delivery of the Tag-Along Notice (or if such date is not a Business Day, the first day thereafter that is a Business Day) at 10:00 a.m., local time (the "**Transfer Closing Date**"). The delivery of certificates, if issued evidencing such Subject Securities and Tag-Along Securities, respectively, duly endorsed for transfer, or similar instruments sufficient to effect the Transfer of such Equity Securities shall be made on such date against payment of that portion of the Transfer proceeds to which the Transferring Stockholder and each Tag-Along Holder, respectively, is entitled by reason of its participation in the Transfer.

(f) In the event that no Non-Transferring Designating Stockholder elects to Transfer its Equity Securities pursuant to this Section 4.2, the Transferring Stockholder shall have the right to consummate the Transfer of the Subject Securities to the Proposed Purchaser until the Transfer Closing Date, at a price not greater than the price contained in, and otherwise on terms and conditions no more favorable to the Transferring Stockholder, economically or otherwise, than those set forth in, the Tag-Along Notice; it being agreed that, if the Transferring Stockholder does not consummate a Transfer of the Subject Securities prior to or on the Transfer Closing Date, the Transferring Stockholder will not effect any Transfer of any of the Subject Securities without commencing *de novo* the procedures set forth in this Section 4.2.

(g) Notwithstanding Section 4.2(b), if any Proposed Purchaser refuses to purchase Tag-Along Securities of the Tag-Along Holders pursuant Section 4.2(b), the Transferring Stockholder may not sell any Subject Securities to such Proposed Purchaser unless and until, simultaneously with such sale, such Transferring Stockholder purchases all Tag-Along Securities of the Tag-Along Holders from such Tag-Along Holders on the same terms and conditions (including the proposed purchase price) as set forth in the Tag-Along Notice and as provided in Section 4.2(d) (with the number of such Tag-Along Securities to be Transferred reduced, as necessary, in the manner contemplated by Section 4.2(b)). In connection with such purchase by the Transferring Stockholder, such Tag-Along Holders shall deliver to the Transferring Stockholder any stock certificate or certificates, properly endorsed for transfer, representing the Tag-Along Securities being purchased by the Transferring Stockholder (or request that the

Company effect such transfer in the name of the Transferring Stockholder); *provided* that if any such Tag-Along Holder alleges that any such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Company to indemnify the Company against any claim that may be made against the Company on account of the alleged loss, theft or destruction of such certificate shall be delivered to the office of the Company as a substitute for such certificate. Any such Tag-Along Securities transferred to the Transferring Stockholder will be subsequently and immediately transferred to the Proposed Purchaser against payment therefor upon consummation of the transfer of Subject Securities (with the number of such Subject Securities to be Transferred reduced, as necessary, in the manner contemplated by Section 4.2(b)) pursuant to the terms and conditions specified in the Proposed Transfer Notice, and the Transferring Stockholder shall concurrently therewith remit or direct payment to each such Tag-Along Holder the portion of the aggregate consideration to which each such Tag-Along Holder is entitled by reason of its participation in such sale as provided in this Section 4.2(g).

(h) If the Transferring Stockholder purports to sell any Subject Securities in contravention of this Section 4.2 (a "**Prohibited Transfer**"), each Tag-Along Holder who desires to exercise its rights under this Section 4.2 with respect to such Transfer of Subject Securities may, in addition to such remedies as may be available by law, in equity or hereunder, require such Transferring Stockholder to purchase from such Tag-Along Holder the type and number of shares of Equity Securities that such Tag-Along Holder would have been entitled to sell to the Proposed Purchaser had the Prohibited Transfer been effected in compliance with the terms of this Section 4.2. The sale will be made on the same terms and subject to the same conditions as would have applied had the Transferring Stockholder not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after the applicable Tag-Along Holder learns of the Prohibited Transfer, as opposed to the timeframe proscribed elsewhere in this Section 4.2. The Transferring Stockholder shall also reimburse each Tag-Along Holder for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of the Investor's rights under this Section 4.2(h).

Section 4.3 Drag-Along Rights

(a) If Stockholders holding, in the aggregate, a Supermajority of the issued and outstanding shares of Voting Securities (the "**Drag-Along Sellers**") propose to Transfer more than 67.0% of the issued and outstanding Equity Securities, merge or consolidate the Company with or into another Person or sell all or substantially all of the assets of the Company and its Subsidiaries (whether through merger or otherwise), in each case, to any Person or group of affiliated Persons (the "**Drag-Along Purchaser**") that is not an Affiliate of any of the Drag-Along Sellers (a "**Drag-Along Sale**"), and such Drag-Along Sellers provide the notice described in Section 4.3(c), then each other Stockholder (collectively, the "**Drag-Along Stockholders**") shall participate in the Drag-Along Sale in accordance with this Section 4.3. Subject to the provisions of Section 4.3(b), each Drag-Along Stockholder shall consent and raise no objections to a Drag-Along Sale (and shall vote in opposition to any and all other proposals that could reasonably be expected to delay or impair the ability of the Company to consummate such Drag-Along Sale) and, if the Drag-Along Sale is structured as a Transfer of Equity Securities, agrees to Transfer, and shall Transfer, the proportional amount or all of each class of

such Drag-Along Stockholder's Equity Securities on the terms and conditions approved by the Drag-Along Sellers (subject to the conditions set forth in Section 4.3(b) below); *provided,* that any Equity Security Equivalents required to be Transferred pursuant to this Section 4.3 shall be deemed converted into Common Stock or other Equity Securities, as the case may be, in accordance with the terms thereof (after giving effect to any adjustments to the exercise or conversion price or number of securities acquirable upon exercise, conversion or exchange thereof, as the case may be, that occur or would occur prior to or upon the consummation of such Drag-Along Sale in accordance with the terms of such Equity Security Equivalents) and the number of shares of Common Stock or other Equity Securities, as the case may be, issued in respect thereof shall be reduced by the number of securities having a value as determined in accordance with the terms thereof equal to any exercise price payable by the holder thereof in connection with such conversion, and if such Equity Security Equivalents have no value they shall be deemed cancelled without any payment. No Drag-Along Stockholder will exercise any dissenters' rights, rights of appraisal or other similar rights that it may have under applicable law in connection with, or take any action to impede or otherwise interfere with, a Drag-Along Sale. Each Drag-Along Stockholder shall use reasonable best efforts to take all necessary actions in connection with the consummation of the Drag-Along Sale as are reasonably requested by the Drag-Along Sellers or the Drag-Along Purchaser.

(b) The obligations of the Drag-Along Stockholders set forth in this Section 4.3 are subject to satisfaction of the following conditions: (i) upon the consummation of a Drag-Along Sale, (A) the Drag-Along Stockholders will each receive the same form and amount of consideration per one security of each type of Equity Security held in common by such Stockholder Majority and such consideration shall be paid to each of the Drag-Along Stockholders at the same time and (B) the Drag-Along Stockholders shall not be obligated to receive consideration other than in cash, debt obligations and equity in issuers that are taxed as C corporations; (ii) if any Drag-Along Stockholder is given an option as to the form and/or amount of consideration to be received, all Drag-Along Stockholders shall be given the same option; (iii) no Drag-Along Stockholder shall be required to indemnify the Drag-Along Purchaser for an aggregate amount in excess of the lesser of (A) the total consideration received by such Drag-Along Stockholder in connection with such Drag-Along Sale and (B) except as to any Stockholder Representation with respect to itself (as to which the limit in (A) shall apply), that proportion of the total liabilities that equals the proportion of the total consideration received by such Drag-Along Stockholder relative to the total consideration received by all Drag-Along Stockholders in such Drag-Along Sale; (iv) any indemnification to be provided by any Drag-Along Stockholder shall be limited to an escrow; (v) any indemnification to be provided by any Drag-Along Stockholder as well as any costs and expenses of the Company and the Drag-Along Sellers in connection with the proposed transaction shall be borne by the Drag-Along Sellers and the Drag-Along Stockholders on a pro rata basis (several and not joint) in accordance with each seller's proportion of the total consideration received or receivable by all sellers in the Drag-Along Sale, except for indemnification in connection with Stockholder Representations provided by such Drag-Along Stockholder with respect to itself which will be provided solely by such Drag-Along Stockholder (subject to paragraph (iv) above); (vi) no Drag-Along Stockholder shall be required to make any representations other than the Stockholder Representations with respect to itself which shall be made severally by each Drag-Along Stockholder and not jointly and any such representations shall only be those as are customarily made by selling security holders in a compelled sale; and (vii) no Drag-Along Stockholder shall

be required to agree to a non-compete in connection with the transaction but may be required to agree to a customary non-solicitation of employees of the Company and its Subsidiaries.

(c) If the Drag-Along Sellers elect to designate any applicable transaction as a Drag-Along Sale, the Drag-Along Sellers shall deliver a written notice to the Company so stating. Promptly upon such designation, the Company shall deliver a notice to each Drag-Along Stockholder setting forth the material terms of the Drag-Along Sale (including the proposed closing date for its consummation, which shall not be less than fifteen (15) Business Days from the receipt of such notice) and shall deliver when available all documents reasonably required to be executed by each Drag-Along Stockholder to consummate such Drag-Along Sale. Each Drag-Along Stockholder shall execute and deliver to the Company at least three (3) Business Days prior to the proposed closing date referred to above, all documents previously furnished to such Drag-Along Stockholder for execution in connection with the Drag-Along Sale. If any Drag-Along Stockholder fails to execute and deliver such documents to the Company, and such Drag-Along Sale is subsequently consummated (such Drag-Along Stockholder, a "**Defaulting Drag-Along Stockholder**"), (i) the Company may establish an escrow account for the consideration that would otherwise be paid to the Defaulting Drag-Along Stockholder and the Defaulting Drag-Along Stockholder shall be deemed to have appointed any member of the Board as such Drag-Along Stockholder's agent to Transfer all of its Equity Securities proposed to be included in the Drag-Along Sale to the Drag-Along Purchaser and to receive the consideration in trust for such Defaulting Drag-Along Stockholder, (ii) the receipt by the escrow agent of the consideration for such Equity Securities owned by such Defaulting Drag-Along Stockholder shall be a good discharge to the Drag-Along Purchaser and after its name has been entered into the records of the Company in purported exercise of the power, the validity of the proceedings shall not be questioned by any Person and (iii) the Defaulting Drag-Along Stockholder shall be bound to deliver to the Company certificates, if issued, representing such Equity Securities or a similar instrument sufficient to effect the Transfer of such Equity Securities and on such delivery shall be entitled to receive the consideration therefor without interest.

(d) Each Stockholder affirms that its agreement to vote for the approval of and participate in such Drag-Along Sale is given as a condition to its ownership of the Equity Securities and as such is coupled with its interest and is irrevocable.

(e) Without intending to limit the remedies available to any party hereto, if the Company, any Drag-Along Seller or any Drag-Along Stockholder (other than a Defaulting Drag-Along Stockholder) brings an action against a Defaulting Drag-Along Stockholder to enforce the provisions of this Section 4.3, and such Defaulting Drag-Along Stockholder is found to have breached this Agreement, the Defaulting Drag-Along Stockholder shall pay all reasonable legal fees and disbursements incurred by the party or parties that brought such action.

(f) In the event of a Drag-Along Sale, the Stockholders shall only have tag-along rights pursuant to Section 4.2 and right of first refusal rights pursuant to Section 4.1 if the Drag-Along Sellers elect not to exercise their drag-along rights pursuant to this Section 4.3.

Section 4.4 Preemptive Rights

(a) The Company hereby grants to each Stockholder, in each case (i) that is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act (other than holders of Common Stock issued pursuant to any management or employee equity incentive plan approved by the Board) and (ii) that owns, together with its Affiliates, not less than five percent (5.0%) of the Original Equity Securities (collectively, the "**Preemptive Right Holders**"), and/or, at such party's election, one or more of its Affiliates (which Affiliate(s) shall (if not already parties hereto), prior to receiving any Preemptive Securities pursuant to this Section 4.4, agree in writing to be bound by, and shall be a party to, this Agreement and which Affiliate(s) shall also be an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act) the right (the "**Preemptive Right**") to purchase any or all of the Preemptive Percentage Allocation (as defined below) of (or pursuant to Section 4.4(b), such applicable larger amount of) each type of the Equity Securities and Equity Security Equivalents, and any option, warrant, right, call or similar security or right exercisable into, exchangeable for, or convertible into the same, proposed to be issued by the Company after compliance with Section 4.6(d), to the extent applicable (collectively, "**Preemptive Securities**") in any Eligible Offering (as defined below). Each Preemptive Right Holder electing to exercise its Preemptive Right will be entitled to purchase up to that portion of each type of the Preemptive Securities calculated by multiplying such type of Preemptive Securities by a fraction, the numerator of which is equal to the number of shares of Common Stock owned (or may be acquired upon the conversion of Equity Securities) by such Preemptive Right Holder and the denominator of which is equal to the total number of shares of Common Stock owned (or may be acquired upon the conversion of Equity Securities) by all Preemptive Right Holders (the "**Preemptive Percentage Allocation**"), and shall specify what amount it desires to purchase. Any Preemptive Right Holder that is a beneficial owner of Equity Security Equivalents and wishes to exercise the Preemptive Right to purchase Preemptive Securities, shall, to the extent allowed by the terms of such Equity Security Equivalents, convert, exercise or exchange that number of Equity Security Equivalents as it desires to be taken in account for purposes of calculating its Preemptive Percentage Allocation into or for shares of Common Stock within the Preemptive Notice Period and prior to delivery of its Preemptive Purchase Notice and only such shares of Common Stock held by such Preemptive Right Holder at the time of delivery of its Preemptive Purchase Notice shall be considered in calculating such Preemptive Right Holder's Preemptive Percentage Allocation; if the terms of such Equity Security Equivalents do not allow such conversion, exercise or exchange, such Preemptive Right Holder shall not be entitled to use such Equity Security Equivalents in calculating its Preemptive Percentage Allocation, and if such Preemptive Right Holder holds only such Equity Security Equivalents, shall not be eligible to exercise the Preemptive Right.

(b) Each Preemptive Right Holder shall have the right to specify what additional amount, if any, of the Preemptive Securities it would agree to purchase (together with the Preemptive Securities that it may purchase pursuant to its Preemptive Percentage Allocation, the "**Preemptive Maximum**") in the event that any Preemptive Securities remain unpurchased by other Preemptive Right Holders (the "**Excess Preemptive Securities**"). If there are any Excess Preemptive Securities, then such Excess Preemptive Securities shall be allocated to each Preemptive Right Holder that elected to exercise its Preemptive Right for Preemptive Securities in excess of its Preemptive Percentage Allocation (each such Stockholder, an "**Excess Preemptive Stockholder**") based on the relative ownership, prior to giving effect to the

contemplated issuance of Preemptive Securities in such Eligible Offering, of shares of Common Stock (or that may be acquired upon the conversion of Equity Securities) of such Excess Preemptive Stockholder to other Excess Preemptive Stockholders and subject to such Excess Preemptive Stockholder's Preemptive Maximum. Such calculations shall be performed sequentially until either (i) all Preemptive Securities shall have been allocated to one or more Preemptive Right Holders or (ii) a number of Preemptive Securities shall have been allocated to each Preemptive Right Holder sufficient to satisfy the Preemptive Maximum of each Stockholder who elected to exercise its Preemptive Right. For purposes of the foregoing, calculations of relative ownership shall be based upon the number of shares of Common Stock held by each Excess Preemptive Stockholder relative to all Excess Preemptive Stockholders, excluding any Excess Preemptive Stockholder that has already been allocated a number of Preemptive Securities sufficient to satisfy its Preemptive Maximum. For the avoidance of doubt, only those Stockholders granted the right to subscribe for Preemptive Securities in accordance with Section 4.4(a) above with respect to any Eligible Offering shall have the right to subscribe for Excess Preemptive Securities in such Eligible Offering.

(c) For purposes of this Agreement, the following term shall have the meaning set forth below:

"**Eligible Offering**" means an offer by the Company to issue any Preemptive Security, other than:

(i) an offering by the Company of Equity Securities in or following an Initial Public Offering;

(ii) Equity Securities issued under the Equity Incentive Plan;

(iii) Equity Securities issued, or issuable upon conversion of other securities of the Company issued, pursuant to or in connection with and in consideration for any acquisitions, joint ventures or other strategic investments approved by the Board, in each case as long as (A) such Equity Securities are issued to the counterparty of the underlying transaction and (B) such Equity Securities are not issued to any Stockholder or its Affiliates;

(iv) Equity Securities of the Company issued upon the conversion or exercise of any security with respect to which the Company has previously complied with this Section 4.4 in all respects, which is convertible into or exchangeable for, or carries rights or options to purchase, Equity Securities of the Company;

(v) Equity Securities issued on a *pro rata* basis pursuant to any stock split, stock dividend on Equity Securities or recapitalization approved by the Board; or

(vi) Equity Securities issued, or issuable upon conversion of other securities of the Company issued, in each case, in customary amounts as an inducement

in connection with any bona fide debt financing of the Company or its Subsidiaries (the issuances contemplated in paragraphs (i) through (vi) collectively being referred to as the "**Excluded Issuances**").

(d) The Company shall, before any securities are issued pursuant to an Eligible Offering, give written notice (a "**Preemptive Notice**") thereof to each Preemptive Right Holder. Such Preemptive Notice shall specify the amount and type of securities proposed to be issued, the proposed date of issuance, the consideration that the Company intends to receive therefore and all other material terms and conditions of such proposed issuance. For a period of fifteen (15) days following the date of the Preemptive Notice (the "**Preemptive Notice Period**"), each Preemptive Right Holder shall be entitled, by written notice to the Company (a "**Preemptive Purchase Notice**"), to elect to purchase any or all of the securities being sold in the Eligible Offering, as provided in, and as subject to cutback as set forth in, Sections 4.4(a) and (b). Failure by any Stockholder to provide a Preemptive Purchase Notice within the Preemptive Notice Period shall be deemed an election by such Stockholder not to purchase any of the Preemptive Securities in the applicable Eligible Offering. To the extent that there are Preemptive Securities that have not been elected to be purchased by Stockholders pursuant to this Section 4.4, then the Company may issue such Preemptive Securities to any Person) that is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act, but only for consideration not less than, and otherwise on no less favorable terms, in the aggregate, to the Company than those set forth in the Preemptive Notice and only within ninety (90) days after the end of the Preemptive Notice Period. After the end of such period of time, the Company shall not effect any sale of any Preemptive Securities that are the subject of the Preemptive Notice without commencing *de novo* the procedures set forth in this Section 4.4(d).

(e) Subject to the closing of the applicable Eligible Offering, the Company shall issue to such Stockholder or Stockholders, and such Stockholder or Stockholders shall purchase from the Company for the consideration and on the terms set forth in the Preemptive Notice, the Preemptive Securities that such Stockholder or Stockholders shall have been allocated pursuant to this Section 4.4, within thirty (30) days of the end of the Preemptive Notice Period (subject to delay for an additional fifteen (15) Business Days for satisfaction of any required material third party or governmental Consents, compliance with applicable laws and the absence of any injunction or similar legal order preventing such transaction).

(f) The Company may comply with any applicable securities laws before issuing any Preemptive Securities pursuant to this Section 4.4 and shall not be in violation of the provisions hereof by reason of such compliance; *provided* that the Company is using ~~commercially~~its reasonable best efforts to so comply.

(g) Except for equity securities of a Subsidiary to be owned by the Company or another Subsidiary, the rights and obligations of the Company in this Section 4.4 shall apply to each Subsidiary to the same extent as if such Subsidiary were the Company for purposes of this Section 4.4.

(h) Any Preemptive Right Holder or its Affiliate(s) in exercising the Preemptive Right pursuant to this Section 4.4 may designate a financial intermediary to acquire and hold the related Preemptive Securities for which such Preemptive Right has been exercised so long as

such financial intermediary agrees unconditionally and irrevocably to Transfer such Equity Securities to such Preemptive Right Holder or such Preemptive Right Holder's Affiliate(s) within thirty-five (35) days of receiving such Preemptive Securities; *provided* that notwithstanding anything to the contrary in this Agreement, no Person acting as a financial intermediary as contemplated above shall be required to execute a Joinder Agreement in connection with acting in such capacity. Any Preemptive Right Holder may assign any portion of its Preemptive Rights to one or more of its Affiliate(s) in connection with any Eligible Offering. Notwithstanding anything to the contrary contained herein no Stockholder may elect to assign its right to purchase Preemptive Securities to one or more of its Affiliates if: (i) upon consummation of the issuance of Preemptive Securities to such Affiliate(s), the Company would be required by the Securities Act or the Exchange Act, including Section 12(g) of the Exchange Act, or any other foreign, federal, state or local securities laws to register any class of its Equity Securities with the SEC or other similar regulatory authority or to file periodic reports under Section 13 of the Exchange Act or other similar regulatory authority by virtue of such issuance or (ii) the Board in good faith determines such Affiliate is a Competitor.

Section 4.5 Information

(a) The Company shall deliver (so long as it is not subject to the reporting requirements of Section 13(a) of the Exchange Act) to each Stockholder that, together with its Affiliates, holds more than two percent (2.0%) of the issued and outstanding Voting Securities (calculated including holdings by each Stockholder and its Affiliates) (each, a "**Major Stockholder**"), and, upon written request therefore, any other Stockholder, the following:

(i) as soon as available, but in any event within forty-five (45) days of the end of each fiscal quarter of the Company for the first three quarters of a fiscal year of the Company, copies of the unaudited consolidated financial statements of the Company and its Subsidiaries, including a balance sheet, income statement, and statement of cash flows during such period, prepared in accordance with United States generally accepted accounting principles ("**GAAP**") applicable to periodic financial statements generally and all in reasonable detail (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP); and

(ii) as soon as available, but in any event within one hundred twenty (120) days of the end of each fiscal year of the Company, copies of consolidated financial statements of the Company and its Subsidiaries, including a balance sheet, income statement and statement of cash flows during such period, including all notes thereto and in comparative form the corresponding figures for the corresponding periods of the previous fiscal year, all in reasonable detail, audited by independent certified public accountants and prepared in accordance with GAAP.

(b) The Company shall deliver to each Designating Stockholder, upon written request therefor, the following:

(i) within thirty (30) days following the end of each fiscal year of the Company, an annual budget, and promptly following the adoption thereof, any Board adopted updates to such budget;

(ii) copies of all material notices from accountants, landlords, insurers and counterparties to material agreements;

(iii) copies of any filings or notices of any material actions, suits or proceedings by or before any arbitrator or Governmental Authority against or affecting the Company; and

(iv) such other information concerning the condition or operations, financial or otherwise, of the Company and its Subsidiaries as may, from time to time, be reasonably requested by such Designating Stockholder

(c) The Company may satisfy the delivery requirements of this Section 4.5 by providing the appropriate Stockholders with password access to a virtual data room containing the information required to be provided by this Section 4.5. Access to such virtual data room may be made contingent upon such Stockholder certifying its right to receive such information pursuant to this Agreement and such virtual data room may be divided such that information is only available to those Stockholders entitled to receive such information pursuant to this Agreement.

(d) Notwithstanding the foregoing, (i) the Company is not required to provide access to the information described in this Section 4.5 to any Person that the Board in the good faith exercise of its fiduciary duties reasonably determines is a Competitor or an Affiliate of a Competitor, and (ii) the Company shall not be obligated pursuant to this Section 4.5 to provide access to any information that it reasonably and in good faith considers to be a trade secret or confidential information (unless covered by a confidentiality agreement, in form reasonably acceptable to the Company) or the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel; provided, that this Section 4.5(d) shall not prevent any director of the Board from receiving and accessing any information necessary to comply with his or her fiduciary duties as a director of the Board.

(e) Notwithstanding anything else in this Section 4.5 to the contrary, the Company may cease providing the information set forth in this Section 4.5 during the period starting with the date sixty (60) days before the Company's good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company's covenants under this Section 4.5 shall be reinstated at such time as the Company is no longer actively employing its ~~commercially~~ reasonable best efforts to cause such registration statement to become effective; provided, further, that this Section 4.5(e) shall not prevent any director of the Board from receiving and accessing any information necessary to comply with his or her fiduciary duties as a director of the Board.

Section 4.6 Supermajority Approval of Certain Transactions. Notwithstanding anything to the contrary contained in this Agreement, without the prior approval of the Stockholders

holding at least sixty-seven percent (67.0%) of the issued and outstanding Voting Securities (a "**Supermajority**"), the Company shall not, and shall cause each of its Subsidiaries not to, (whether directly or indirectly or by amendment, merger, consolidation or otherwise) take any of the following actions (and any such action entered into without out such approval shall be void *ab initio* and of no force and effect):

(a) make any change in the size or classification of the Board;

(b) engage in or complete any winding up, liquidation or dissolution of the business and operations of the Company or any of its Subsidiaries;

(c) complete any recapitalization, reclassification or similar action with respect to the Equity Securities, Equity Security Equivalents or any equity securities of its Subsidiaries (or securities exercisable for, convertible into or exchangeable for such equity securities), including (i) any conversion of the Company and its Equity Securities into a limited liability company or partnership and related equity interests and (ii) any modification to the rights, powers and privileges~~, obligations or liabilities~~ of any issued and outstanding Equity Securities of any class in a manner that adversely impacts the rights, powers and privileges of any issued and outstanding Equity Securities of any other class~~;~~ (provided that for purposes of ~~foregoing~~this clause (ii), the term "Supermajority" shall mean prior approval of Stockholders holding at least sixty-seven percent (67.0%) of the issued and outstanding Voting Securities that are not being so modified (the "**Special Situations Supermajority**")), but excluding, the issuance of any Equity Securities;

(d) issue any Equity Securities (or Equity Security Equivalents) at less than fair market value as determined by the Board in good faith, other than Excluded Issuances;

(e) redeem any Equity Securities;

(f) complete any transaction between the Company or any of its Subsidiaries, on the one hand, and, on the other hand: (i) any Stockholder or Affiliate of a Stockholder (other than (1) pursuant to definitive documentation that provides for a bona fide loan to the Company or any of its Subsidiaries, (2) transactions among any of the Company and any of its Subsidiaries, (3) the Transactions occurring on the Effective Date, (4) the issuance of Equity Securities in an Eligible Offering in accordance with Section 4.4, (5) the consummation of a Drag-Along Sale pursuant to the terms of this Agreement, and (6) the exercise of registration rights in accordance with Section 5.5); or (ii) any director or officer of the Company or any of its Subsidiaries or any of their respective Affiliates (other than ordinary course employment and indemnification arrangements and the Equity Incentive Plan);

(g) engage in any unrelated line of business;

(h) consummate any sale or other disposition of assets of the Company or any of its Subsidiaries with a value in excess of $40 million in one or a series of related transactions;

(i) consummate any transaction that results in a Change of Control other than a Drag-Along Sale pursuant to the terms hereof;

(j) establishes or enters into any joint ventures, partnerships, alliances or similar arrangements in which the Company and/or any of its Subsidiaries invests (or commits to invest), or becomes liable for, an aggregate amount in excess of $10 million;

(k) consummate any Initial Public Offering or any action to cause the Company to become a public reporting company under the Exchange Act and the related rules and regulations thereunder;

(l) amend, modify or waive any provision of this Agreement, the Charter or the By-Laws;

(m) amend, modify or waive the governing documents of any of the Subsidiaries of the Company (if such amendment, modification or waiver is inconsistent with, or otherwise impedes the rights of any Stockholder existing under, this Agreement, the Charter or the By-Laws); or

(n) enter into any agreement to do any of (a) through (m) above.

Section 4.7 Board of Directors and Board Observers

(a) **Number of Board Members.** Effective as of the date hereof, the Board shall consist of seven (7) members. The Company shall take all appropriate action to maintain the number of directors on the Board at seven (7), or such greater or lesser number as is (i) required by the terms of Section 4.7(b), (ii) approved by the Stockholders pursuant to Section 4.6(a) or (iii) required to comply with any listing, regulatory requirements and/or state laws applicable to the composition of the Board from time to time; *provided* that such number shall not be decreased to a number that is less than the number of directors needed to satisfy the rights of the Designating Stockholders to designate directors in accordance with Section 4.7(b). Effective upon the consummation of the Transactions and the execution of this Agreement, the initial members of the Board shall be the individuals set forth on Exhibit B hereto and any other directors of the Company are hereby removed from the Board.

(b) **Composition of the Board and Right to Designate Directors.** In connection with the initial constitution of the Board as set forth on Exhibit B hereto, and at each annual or special Stockholders meeting called for the election of directors, and whenever the Stockholders act by written consent with respect to the election of directors, (i) each Stockholder agrees, for so long as this Agreement shall be in effect, to vote or otherwise give such Stockholder's consent in respect of all Voting Securities (whether now owned or hereafter acquired) owned by such Stockholder, and take all other appropriate action in order to cause and (ii) the Company agrees to include in the slate of nominees such designees as any Stockholders entitled to designate directors (each such director so designated, a "**Designated Director**") pursuant to Section 4.7(b)(i) below (each such Stockholder so entitled to designate, together with any Affiliate Permitted Trasferee, a "**Designating Stockholder**") shall request and agrees to take all necessary and desirable actions within its control (including nominating such designees to be elected as directors), in each case, in order to cause:

(i) the election to the Board of:

(1) one (1) designee selected by Kelso for so long as Kelso (calculated including holdings of such Stockholder and its Affiliates) holds an amount of Voting Securities equal to at least ~~25~~24% of the Original Equity Securities issued to [Kelso/GSO][1] (the "**Designating Threshold**");

(2) one (1) designee selected by GSO for so long as GSO (calculated including holdings of such Stockholder and its Affiliates) holds an amount of Voting Securities equal to the Designating Threshold (such director, the "**GSO Director**");

(3) one (1) designee selected by Carl Marks for so long as Carl Marks (calculated including holdings of such Stockholder and its Affiliates) holds an amount of Voting Securities equal to the Designating Threshold;

(4) one (1) designee selected by Marblegate for so long as Marblegate (calculated including holdings of such Stockholder and its Affiliates) holds an amount of Voting Securities equal to the Designating Threshold;

(5) two (2) directors, who are independent, nominated by the Board and selected by Stockholders holding a majority of the Voting Securities (each an "**Independent Director**"); and

(6) the then-serving chief executive officer of the Company as elected by the Board.

all of which Persons shall hold office until their respective successors shall have been elected and shall have qualified, subject to their earlier removal in accordance with Section 4.7(b)(ii), as applicable, the Charter, the By-Laws and applicable corporate law. Notwithstanding the foregoing, any time the GSO Director would otherwise be entitled to cast more than 25% of the total number of votes entitled to be cast on any matter before the Board (assuming all members of the Board are voting on such matter) in accordance with the Charter, as determined by GSO, either (x) one or more (as determined by GSO) additional Independent Directors shall be appointed to the Board by the then-serving chief executive officer of the Company as elected by the Board (each, an "**Alternative Director**"), which appointment(s) shall be subject in all respects to GSO's consent, and shall be entitled to cast or (y) a currently serving Independent Director shall become entitled to cast (in lieu of the GSO Director), in each case the number of votes that reduces the number of votes the GSO Director is entitled to cast to 25% or less of the total number of votes entitled to be cast by directors. For the avoidance of doubt, any vote entitled to be cast by an Alternative Director

[1] NTD: If Kelso holds less Common Stock than GSO on the Effective Date, than this will be Kelso. Otherwise, it will be GSO.

or additional vote entitled to be cast by any currently serving Independent Director will reduce the number of votes entitled to be cast by the GSO Director.

(ii) the removal from the Board, with or without cause, of any Designated Director elected in accordance with Section 4.7(b)(i) only upon the written request to the Company by the Designating Stockholder that designated such Designated Director if such Designating Stockholder, at the time of such written request, meets the requirements of Section 4.7(b)(i); *provided* that a Designated Director may not otherwise be removed from the Board except for cause or as required by applicable law and, in such cases, the applicable Designating Stockholder may fill the vacancy on the Board created by such removal.

The rights granted pursuant to this Section 4.7(b) shall not be assignable, whether in whole or in part, in connection with a Transfer of shares of Common Stock.

(c) Subject to Section 4.7(b), each director shall hold office for a term of one (1) year.

(d) For each Designating Stockholder that loses its right to designate a director in accordance with the requirements of Section 4.7(b)(i), the number of Independent Directors elected pursuant to Section 4.7(b)(i)(5) shall be increased by one (1); *provided*, *that*, to the extent another Designated Director receives the right to cast one or more additional votes in connection with such loss (in accordance with the Charter), the number of directors elected pursuant to Section 4.7(b)(i)(5) shall not be increased until such time as the applicable Designated Director is no longer entitled to cast such additional vote(s).

(e) Any vacancy in the Board resulting from the death, resignation, removal or disqualification of any director shall be filled in accordance with Section 4.7(b)(i) by the Stockholders entitled to select a director for the vacated position.

(f) For purposes of this Section 4.7, any consent, approval, designation right or any other right to be exercised by any Stockholder and its Affiliates shall be exercised by a majority of the voting power of all Voting Securities held by such Stockholder and its Affiliates collectively.

(g) **Board Observer**. Each of GSO, Kelso, Carl Marks and Marblegate, so long as it remains a Designating Stockholder, shall have the right to appoint one (1) representative (a "**Board Observer**") (so that, for the avoidance of doubt, there will never be more than four total Board Observers), to attend all meetings (whether in person, telephonic or other) of the Board (or any committee thereof) in a non-voting, observer capacity, and the Company and the Board shall provide to such Board Observer, concurrently with the members of the Board (or of such committee), and in the same manner, notice of such meeting and a copy of all minutes, consents and other materials provided to such members. The Board may request that any Board Observer recuse himself or herself from portions of meetings of the Board, or the Company may omit to provide a Board Observer with certain information, if the Board believes in good faith, based on the advice of Company counsel, that such recusal or omission is reasonably necessary (a) in order to preserve the Company's or any of its Subsidiaries' attorney-client privilege, or (b) because an

issue is to be discussed at a meeting of the Board or committee thereof (or material is to be distributed at such meeting) is not appropriate to be discussed in the presence of (or to be provided to) a Board Observer, due to an actual or potential conflict of interest; *provided*, *however*, that, in the case of clause (a), a Board Observer shall not be so excluded unless all other persons whose receipt of such materials or presence at a meeting would result in loss of attorney-client privilege are also excluded. The Board Observer may be required to execute a confidentiality agreement reasonably acceptable to the Company prior to attending any meetings or receiving any written materials. For the avoidance of doubt, no Board Observer shall have any right to vote on any matter before the Board or any committee thereof.

(h) **D&O Insurance.** The Company agrees to obtain and maintain from and after the Effective Date directors' and officers' liability insurance of the type and amount customarily obtained by similarly situated companies.

(i) **Subsidiary Boards**. In the event that the board of directors of any Subsidiary of the Company contains one or more non-management directors, each of the Designated Directors shall also be appointed to the board of directors of such Subsidiary with equivalent voting and other rights as such Designated Directors have with respect to the Board and its committees. If the composition of, and voting power of the members of, any board of directors (or equivalent governing body) of any Subsidiary of the Company (each, a "**Subsidiary Board**") does not match exactly the composition of, and voting power of the members of, the Board, then any material act or authorization to be taken or made by such Subsidiary Board shall also be subject to the prior approval of the Board.

ARTICLE V

ADDITIONAL COVENANTS

Section 5.1 Confidentiality

Subject to this Section 5.1, each Stockholder, member of the Board and Board Observer shall hold in strict confidence any Proprietary Information (as hereinafter defined) regarding the Company (or any predecessor thereto or any Subsidiary thereof), or any Proprietary Information regarding the business or affairs of any other Stockholder in respect of the Company, whether such information is received from the Company, another Stockholder or Affiliate of a Stockholder or another Person. "**Proprietary Information**" means any information about the Company, its Subsidiaries, any Stockholder and the business and affairs of the Company and its Subsidiaries or any Stockholder, including the information described in Section 4.5; *provided* that Proprietary Information shall not include (a) information that is or becomes available to the public generally without breach of this Section 5.1, (b) information that becomes available to the Stockholder on a non-confidential basis from a source other than the Company or its Subsidiaries or any other Stockholder or its Affiliates; *provided* that such source was not known by the Stockholder to be bound by a confidentiality obligation to the Company or its Subsidiaries, or (c) information that has been independently conceived without the use of or reliance upon Proprietary Information. The provisions of this Section 5.1 shall survive and remain enforceable against each Stockholder following the date such Stockholder ceases to be a Stockholder of the Company, whether through a Transfer of all of such Stockholder's Equity Securities or

otherwise. Notwithstanding anything herein to the contrary, (i) the Stockholders, members of the Board and Board Observers may disclose Proprietary Information (A) to a bona fide potential purchaser of Equity Securities held by such Stockholder and/or the broker in such transaction, subject to execution of a customary confidentiality agreement by such potential purchaser; (B) required to be disclosed by applicable laws and regulations or stock exchange requirements or requirements of the Financial Industry Regulatory Authority, Inc., including to regulatory bodies asserting jurisdiction over a Stockholder; (C) required to be disclosed pursuant to an order, subpoena or legal process; (D) to any of their respective members, owners, managers, partners, limited partners, officers, fiduciaries or directors; *provided further* that such Person is neither a Competitor nor an Affiliate of a Competitor, (E) to any auditors, counsel, and other professional advisors to such Persons to the extent necessary to obtain their services in monitoring the investment in the Company; *provided* that such Person has been informed of the confidential nature of the information and has been directed to keep such information confidential, and, in any event, the Stockholder disclosing such information shall be liable for any failure by such Person to abide by the provisions of this Section 5.1; *provided further* that such Person is neither a Competitor nor an Affiliate of a Competitor; and (F) in connection with any litigation or dispute among the Stockholder and the Company; (ii) each of GSO, Kelso, Carl Marks and Marblegate (each, a "**Lead Investor**") may publicize in its marketing materials that such Lead Investor was a DIP Lender of the Company and became a Stockholder in connection with the Plan (which may include the reproduction of the Company's logo); and (iii) each Lead Investor may disclose Proprietary Information to such Lead Investor's Affiliates (including funds managed, advised or sub-advised by such Lead Investor) and its and their officers, directors, employees, legal counsel, independent auditors, fund advisors, other experts, advisors or agents, such Lead Investor's current or prospective funding sources and other persons authorized by such Lead Investor to organize, present or disseminate such information. Disclosure pursuant to clause (B), (C) or (F) of the immediately preceding sentence shall be made only subject to such procedures the Stockholder making such disclosure determines in good faith are reasonable and appropriate in the circumstances, taking into account the need to maintain the confidentiality of such information and the availability, if any, of procedures under laws, regulations, subpoenas or other legal processes; *provided* that nothing herein shall be construed to require any Stockholder to expend any amounts with respect to the procedures under laws, regulations, subpoenas or other legal process referenced in this sentence; *provided*, *further*, that to the extent practicable, such Stockholder shall promptly notify the Company of any disclosure of Proprietary Information that is required pursuant to clause (C) of the immediately preceding sentence prior to such disclosure and shall provide the Company with a reasonable opportunity to seek a protective order in connection therewith.

Section 5.2 Issuance of Additional Securities

Unless waived by the Board, the Company shall require any Person to whom it issues Equity Securities subsequent to the Effective Date, including upon exercise of any securities of the Company convertible into or exercisable or exchangeable for Equity Securities, to become a party to this Agreement and agree to be bound by all the provisions hereof by executing a Joinder Agreement. The parties hereto agree that any such additional purchaser shall become a party hereto without further consent of the parties by signing a Joinder Agreement and whether or not added to the list of Stockholders maintained by the Company.

Section 5.3 Competing Activities

Subject only to the terms of any written agreement to the contrary and irrespective of any rights to designate directors to the Board, the Stockholders and their respective officers, directors, stockholders, partners, members, managers, agents and employees, who are not employees of the Company or its Subsidiaries (collectively, "**Non-Employee Holders**"), and each of their respective Affiliates, may engage or invest in, independently or with others, any business activity of any type or description, including those that might be the same as or similar to the Company's or its Subsidiaries' business and that might be in direct or indirect competition with the Company or its Subsidiaries. Neither the Company, its Subsidiaries nor any Stockholder shall have any right in or to such other ventures or activities or to the income or proceeds derived therefrom. The Non-Employee Holders shall not be obligated to present to the Company or any of its Subsidiaries any matter, transaction or interest that is presented to, or acquired, created, or developed by, or which otherwise comes into the possession of any such Non-Employee Holder, even if the matter, transaction or interest is of the character that, if presented to the Company or any of its Subsidiaries, could be taken by the Company or any of its Subsidiaries, other than if such matter, transaction or interest was presented to any Board designee of such Non-Employee Holder expressly and solely in such Person's capacity as a member of the Board specifically for the benefit of the Company or its Subsidiaries. The Non-Employee Holders shall have the right to hold any matter, transaction or interest for their own account or to recommend such matter, transaction or interest to Persons other than the Company, other than if such opportunity was presented to any Board designee of such Non-Employee Holder expressly and solely in such Person's capacity as a member of the Board specifically for the benefit of the Company or its Subsidiaries. Each Non-Employee Holder acknowledges that the other Non-Employee Holders and their respective officers, directors, stockholders, partners, members, managers, agents and employees and each of their respective Affiliates either now or in the future may directly or indirectly hold interest in and/or manage other businesses, including businesses that may compete with the Company or its Subsidiaries and for the Non-Employee Holders' time. Each Stockholder hereby waives any and all rights and claims that they may otherwise have against the Non-Employee Holders and their officers, directors, stockholders, partners, members, managers, agents and employees, and each of their respective Affiliates, as a result of any of such activities.

Section 5.4 No Effect Upon Lending Relationship

Notwithstanding anything herein to the contrary, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of any Stockholder or its Affiliates in its capacity as a lender to the Company or any of its Subsidiaries pursuant to any agreement under which the Company or any of its Subsidiaries has incurred indebtedness. Without limiting the generality of the foregoing, any such Person, in exercising its rights as a lender, including making its decision on whether to foreclose on any collateral security, will have no duty to consider (i) its status or the status of any of its Affiliates as a direct or indirect Stockholder of the Company, (ii) the interests of the Company or (iii) any duty it may have to any other direct or indirect Stockholder of the Company, except as may be required under the applicable loan documents or by commercial law applicable to creditors generally.

Section 5.5 Registration Rights.

(a) For purposes of this Section 5.5, (i) the terms "register", "registered" and "registration" refer to a registration effected by preparing and filing a registration statement on Form S-1 or S-3, or any successor forms thereto, in compliance with the Securities Act and the declaration or ordering of effectiveness of such registration statement and (i) the term "Holder" means any Stockholder. The provisions of this Section 5.5 (x) shall apply to a Public Offering made in compliance with the laws of any jurisdiction outside of the United States, making appropriate adjustments to reflect the requirements thereunder, and (y) shall also apply to a Public Offering of securities formed by the Company, or its Subsidiary, for the purposes of effecting such Public Offering.

(b) **Required Registration.**

(i) Subject to the conditions of this Section 5.5, at any date after an Initial Public Offering of the Common Stock (the "**Demand Date**"), if the Company shall receive a written request from a Stockholder that beneficially owns, in the aggregate, seven percent (7.0%) or more of the issued and outstanding shares of Common Stock then outstanding (calculated including holdings by such Stockholder and its Affiliates) (the "**Initiating Holder**") that the Company file a registration statement under the Securities Act (a "**Demand Registration**") to register an aggregate amount of shares of Common Stock having expected aggregate gross proceeds of at least $25 million or representing at least 10% of the shares of Common Stock then issued and outstanding (the lesser of such amounts, the "**Minimum Registration Amount**"), then the Company shall (x) within twenty (20) days of the receipt thereof, give written notice of such request to all Holders beneficially owning, in the aggregate, two (2.0%) or more of the issued and outstanding shares of Common Stock then outstanding (calculated including holdings by such Stockholder and its Affiliates) (each a "**Piggyback Holder**"), and, (y) subject to the limitations of Section 5.5(b)(ii) and Section 5.5(b)(iii), use its reasonable best efforts to, as soon as practicable, effect the registration under the Securities Act of the shares of Common Stock that the Company has been so requested to register by the Initiating Holder, together with all or such portion of the shares of Common Stock of any Piggyback Holder joining in such request as are specified in a written request received by the Company within fifteen (15) Business Days after the giving of the written notice by the Company specified above. Any notice delivered by an Initiating Holder pursuant to this Section 5.5(b) for a Demand Registration shall specify whether or not such Demand Registration is to be conducted as an underwritten offering. No more than two (2) underwritten Demand Registrations shall be required of the Company with respect to each Initiating Holder. The number of Demand Registrations in the form of a shelf registration shall be unlimited and may be exercised without regard to the Minimum Registration Amount.

(ii) The Company shall not be obligated to use its reasonable best efforts to effect or take any action to cause to become effective any registration

statement pursuant to Section 5.5(b) (i) during any period in which any other registration statement (other than on Forms S-4 or S-8 promulgated under the Securities Act or any successor forms thereto), pursuant to which Primary Shares are to be or were sold, has been filed and not withdrawn (*provided* that the Company is actively employing in good faith ~~commercially~~its reasonable best efforts to cause such registration statement to become effective) or has been declared effective within the prior one hundred eighty (180) days or (ii) after the Company has effected a registration pursuant to Section 5.5(b) (other than a Demand Registration in the form of a shelf registration that was not conducted as an underwritten offering) within the one hundred eighty (180) day period immediately preceding the date of such request for a Demand Registration.

(iii) The Company may delay the filing or effectiveness of any registration statement filed pursuant to Section 5.5(b): (i) for a reasonable period not to exceed forty-five (45) days after the date of a request for registration pursuant to this Section 5.5 if the Company delivers to the Initiating Holder a certificate signed by both the chief executive officer and chief financial officer of the Corporation certifying that, in the good faith judgment of the Board, such registration or offering would reasonably be expected to materially adversely affect and materially interfere with any bona fide material financing of the Company or any material transaction under consideration by the Company or would require disclosure of information that has not been disclosed to the public, the premature disclosure of which would materially adversely affect the Company. Such certificate shall contain a statement of the reasons for such postponement and an approximation of the anticipated delay. The Initiating Holder shall have the right to withdrawal the request for registration and such withdrawal will not be counted for purpose of the number of Demand Registrations pursuant to Section 5.5(b)(i); *provided*, *however*, that the Company shall not defer such obligations under this Section 5.5(b)(iii) more than twice in any twelve (12) month period.

(iv) With respect to any registration pursuant to Section 5.5(b), the Company may include in such registration any Primary Shares; *provided*, *however*, that, if the managing underwriter advises the Company that the inclusion of all shares of Common Stock and Primary Shares proposed to be included in such registration would interfere with the successful marketing (including pricing) of the Common Stock proposed to be included in such registration by any Holder, then the number of shares of Common Stock and Primary Shares to be included in such registration shall be allocated, first, among the Holders of such Common Stock (or, if necessary, such Common Stock pro rata among the Holders of such Common Stock based upon the number of shares of Common Stock owned by each such Holder) or in such other proportions as shall mutually be agreed to by all such selling Holders, and, second, the Primary Shares proposed to be included in such registration; *provided*, *however*, that the number of shares of

Common Stock held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting.

(v) The Initiating Holder shall have the right to designate the managing underwriters of an underwritten Demand Registration requested under this Section 5.5, subject to the reasonable consent of the Company (which consent shall not be unreasonably conditioned, withheld or delayed).

(vi) At any time before the registration statement requested under this Section 5.5 covering Common Stock becomes effective, the Initiating Holder may request the Company to withdraw or not to file the registration statement.

(vii) Notwithstanding anything else in this Section 5.5 to the contrary, a Demand Registration shall not be deemed to have been effected for any purpose of this Section 5.5 if (1) after the registration statement for such Demand Registration has become effective, such Demand Registration is interfered with by any stop order, injunction or other order or requirement of the SEC or any other Governmental Authority for any reason other than a misrepresentation or omission by the Initiating Holder to such Demand Registration; (2) the registration statement for such Demand Registration does not remain effective for at least one hundred eighty (180) days (or such shorter period that shall terminate when all the shares of Common Stock included in such registration statement by the Holders have been sold pursuant to such Demand Registration), plus such period as, in the opinion of counsel for the underwriters to any underwritten offering, a prospectus is required to be delivered under applicable law in connection with the sale or delivery of such Common Stock by an underwriter or dealer; (3) in the event of an underwritten offering, if the conditions to closing specified in the relevant underwriting agreement entered into in connection with such offering are not satisfied or waived other than as a result of a wrongful act or omission by the Initiating Holder to such Demand Registration; or (4) the registration statement for such Demand Registration is withdrawn without becoming effective pursuant to Section 5.5(b)(vi) and all expenses associated with such registration statement are paid by the Initiating Holder to the extent such payment is required pursuant to Section 5.5(f).

(c) **Piggyback Registration.**

(i) If, at any time after an Initial Public Offering, the Company determines to register (including, for this purpose, a registration effected by the Company for holders of its Equity Securities other than the Holders) any of its securities under the Securities Act in connection with the Public Offering of such securities (other than as part of any registration on Form S-4 or S-8 promulgated under the Securities Act, or any successor forms thereto), the Company shall, at each such time, promptly give each

Piggyback Holder written notice of such determination no later than thirty (30) days before its intended initial filing or submission with the SEC. Upon the written request of any Piggyback Holder received by the Company within fifteen (15) Business Days after the giving of any such notice by the Company, the Company shall use its reasonable best efforts to cause to be registered under the Securities Act all of the shares of Common Stock of such Piggyback Holder that such Piggyback Holder has requested be registered for disposition in accordance with the intended method of disposition as stated in such notice.

(ii) If the managing underwriter advises the Company that the inclusion of all securities, including shares of Common Stock and Primary Shares and/or other securities of the Company proposed to be included in such registration would interfere with the successful marketing (including pricing) of the shares of Common Stock proposed to be included in such registration, then the number of shares of Common Stock, other securities and Primary Shares proposed to be included in such registration shall be included in the following order:

(1) first, the Primary Shares; and

(2) second, the shares of Common Stock requested to be included in such registration by the Piggyback Holders of such Common Stock (or, if necessary, such Common Stock pro rata among the Piggyback Holders of such Common Stock based upon the number of shares of Common Stock owned by each such Holder).

Notwithstanding the foregoing, in no event shall the number of shares of Common Stock held by any Piggyback Holder included in the Public Offering be reduced unless all other securities (other than Primary Shares) are first entirely excluded from the offering.

(iii) If any of the Piggyback Holders determines not to agree to the terms of any underwriting agreement to be entered into in connection with any registration pursuant to this Section 5.5(c), it may elect to withdraw therefrom by written notice to the Company and the underwriter prior to the date of pricing such offer. Any shares of Common Stock or other securities excluded or withdrawn from such underwriting shall be withdrawn from such registration.

(d) **Obligations of the Company**.

(i) Whenever required under Section 5.5(b) or Section 5.5(c) hereof to use its reasonable best efforts to effect the registration of any Public Offering, the Company shall (*provided*, that if such registration is being effected pursuant to Section 5.5(c), the Company may at any time delay or abandon the underlying registration without any liability to the Holders):

(1) prepare, submit (if appropriate) and file with the SEC a registration statement with respect to such shares of Common Stock and use its reasonable best efforts to cause such registration statement to become and remain effective, including, without limitation, filing of post-effective amendments and supplements to any registration statement or prospectus necessary to keep the registration statement current;

(2) as expeditiously as reasonably possible, prepare, submit (if appropriate) and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement and keep each registration and qualification under this Agreement effective (and in compliance with the Securities Act) by such actions as may be necessary or appropriate for a period of one hundred and eighty (180) days after the effective date of such registration statement (unless all securities covered by such registration statement are sooner disposed of), all as requested by such Holder or Holders;

(3) as expeditiously as reasonably possible, furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of shares of Common Stock owned by them in accordance with the plan of distribution provided for in such registration statement;

(4) as expeditiously as reasonably possible, use its reasonable best efforts to register and qualify the securities covered by such registration statement under such securities or "blue sky" laws of such jurisdictions as shall be reasonably appropriate (or shall reasonably be requested by any selling Holder) for the distribution of the securities covered by the registration statement, *provided*, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such jurisdiction, and further *provided*, that (anything in this Agreement to the contrary notwithstanding with respect to the bearing of expenses) if any jurisdiction in which the securities shall be qualified shall require that expenses incurred in connection with the qualification of the securities in that jurisdiction be borne by selling Stockholders, then such expenses shall be payable by selling Stockholders pro rata, to the extent required by such jurisdiction;

(5) notify promptly each Holder of Common Stock included in a registration statement and, if requested by such Holder, confirm such advice in writing (A) when a registration statement has become effective and when any post-effective amendments and supplements thereto become effective, (B) of any request by the SEC or any state securities authority for post-effective amendments and supplements to a registration statement and prospectus or for additional information after the registration statement has become effective, (C) of the issuance by the SEC or any state securities authority of any stop order suspending the effectiveness of a registration statement or the initiation of any proceedings for that purpose, (D) if, between the effective date of a registration statement and the closing of any sale of shares of Common Stock covered thereby, the representations and warranties of the Company contained in any underwriting agreement, securities sales agreement or other similar agreement, if any, relating to the offering cease to be true and correct in all material respects, (E) of the happening of any event or the discovery of any facts during the period a registration statement is effective as a result of which such registration statement or any document incorporated by reference therein contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading or, in the case of the prospectus, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (which information shall be accompanied by a written instruction to suspend the use of the registration statement and the prospectus until the requisite changes have been made, at which time written notice of the end of suspension shall be delivered), (F) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Common Stock for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose and (G) of the filing of a post-effective amendment to such registration statement;

(6) enter into agreements (including underwriting agreements) and take all other customary appropriate actions in order to expedite or facilitate the disposition of such Common Stock, whether or not an underwriting agreement is entered into and whether or not the registration is for underwritten offering, including:

(A) make such representations and warranties to the Holders of such Common Stock and the underwriters, if any, in form, substance and scope as are customarily made by issuers to

underwriters in similar offerings as may be reasonably requested by them;

(B) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to any managing underwriters and their counsel) addressed to the underwriters, if any (and, in the case of an underwritten offering, each selling Holder), covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by the underwriters;

(C) obtain "comfort" letters and updates thereof from the Company's independent registered public accounting firm (and, if necessary, any other independent certified public accountants of any Subsidiary or of any business acquired by the Company for which financial statements are, or are required to be, included in the registration statement) addressed to the underwriters, if any, and use reasonable best efforts to have such letter addressed to the selling Holders in the case of an underwritten offering (to the extent consistent with Statement on Auditing Standards No. 72 of the American Institute of Certified Public Accounts), such letters to be in customary form and covering matters of the type customarily covered in "comfort" letters to underwriters in connection with similar offerings;

(D) enter into a securities sales agreement with the Holders and an agent of the Holders providing for, among other things, the appointment of such agent for the selling Holders for the purpose of soliciting purchases of Common Stock, which agreement shall be in form, substance and scope customary for similar offerings;

(E) if an underwriting agreement is entered into, cause the same to contain indemnification and contribution provisions in the form customarily provided to such underwriters in similar offerings; *provided*, that any subject agreement shall conform to the indemnification obligations set forth in Section 5.5(h) hereof; and

(F) deliver to the selling Holders and the managing underwriters, if any, such documents and certificates as may be reasonably requested and as are customarily delivered in similar offerings;

(7) furnish Selling Holders Counsel copies of (A) any comment letters relating to the selling Holders received from the SEC or (B) any other request by the SEC or any state securities authority for amendments or supplements to a registration statement and prospectus or for additional information relating to the selling Holders;

(8) make every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of a registration statement at the earliest possible moment;

(9) cooperate with the selling Holders to facilitate the timely preparation and delivery of certificates representing the shares of Common Stock to be sold and not bearing any restrictive legends; and enable such shares of Common Stock to be in such denominations and registered in such names as the selling Holders or the underwriters, if any, may reasonably request at least two (2) Business Days prior to the closing of any sale of shares of Common Stock;

(10) upon the occurrence of any event or the discovery of any facts, as contemplated by Sections 5.5(d)(5)(E) and 5.5(d)(5)(F), as promptly as practicable after the occurrence of such an event, use its ~~commercially~~ reasonable best efforts to prepare a supplement or post-effective amendment to the registration statement or the related prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the shares of Common Stock, such prospectus will not contain at the time of such delivery any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or will remain so qualified, as applicable, and at such time as such public disclosure is otherwise made or the Company determines that such disclosure is not necessary, in each case to correct any misstatement of a material fact or to include any omitted material fact, promptly notify each Holder of such determination and furnish each Holder such number of copies of the prospectus as amended or supplemented, as such Holder may reasonably request;

(11) within a reasonable time prior to the filing of any registration statement, any prospectus, any amendment to a registration statement or amendment or supplement to a prospectus, provide copies of such document to Selling Holders Counsel and make representatives of the Company available for discussion of such document as reasonably requested by any Holder of Common Stock to be included in such registration statement;

(12) cooperate and assist in any filings required to be made with FINRA and in the performance of any due diligence investigation by any underwriter and its counsel;

(13) if shares of Common Stock are to be sold in an underwritten offering, include in the registration statement, if applicable, a prospectus supplement, to be used for all such information as may be reasonably requested by the underwriters for the marketing and sale of such shares of Common Stock;

(14) cause the appropriate officers of the Company to prepare and make presentations at any "road shows" and before analysts and rating agencies, as the case may be, and use its reasonable best efforts to cooperate as reasonably requested by the underwriters in the offering, marketing or selling of the Common Stock;

(15) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to the Holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months but not more than eighteen (18) months, beginning with the first full calendar month after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act or Rule 158 thereunder;

(16) use its reasonable best efforts to list all shares of Common Stock covered by such registration statement on any securities exchange on which any class of similar securities is then listed;

(17) provide a transfer agent and registrar for all Equity Securities registered pursuant to this Agreement and provide a CUSIP number for all such Equity Securities, in each case not later than the effective date of such registration;

(18) promptly make available for inspection by the selling Holders, any managing underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(19) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(20) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

(ii) If the Company at any time proposes to register any of its securities under the Securities Act subject to the registration rights of the Holders under Section 5.5(b) or Section 5.5(c), and such securities are to be distributed by or through one or more underwriters, then the Company will make reasonable best efforts, if requested by any Holder of Common Stock who requests such registration, to arrange for such underwriters to include such shares of Common Stock among the securities to be distributed by or through such underwriters.

(iii) In connection with the preparation and filing of each registration statement registering shares of Common Stock under this Agreement, the Company will give the Holders of Common Stock on whose behalf such shares of Common Stock are to be so registered and their underwriters, if any, and their respective counsel and accountants the opportunity to participate in the preparation of such registration statement, each prospectus included therein or filed with the SEC, and each amendment thereof or supplement thereto, and will give each of them such access to its books and records and such opportunities to discuss the business of the Company with its officers, its counsel and the independent public accountants who have certified its financial statements, as shall be reasonably necessary, in the opinion of such Stockholders or such underwriters or their respective counsel, in order to conduct a reasonable and diligent investigation within the meaning of the Securities Act.

(e) **Furnish Information.** It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 5.5 that each Holder shall furnish to the Company such information regarding such Holder, the shares of Common Stock held by such Holder, and the intended method of disposition of such securities as the Company shall reasonably request and as shall be required in connection with the action to be taken by the Company.

(f) **Expenses of Registration.** Except as set forth in the second sentence of this Section 5.5(f), all expenses incurred in connection with registrations, filings and qualifications pursuant to this Section 5.5, including all registration, filing and qualification fees, printers' and accounting fees, fees and expenses of compliance with securities or blue sky laws, fees and expenses relating to filings with the Financial Industry Regulatory Authority, Inc. or any applicable securities exchange, fees of underwriters (but excluding discounts, commissions or fees of underwriters, selling brokers, dealer managers or similar securities industry professionals

attributable to the shares of Common Stock being registered, but including any out-of-pocket expenses related thereto), and fees and disbursements of counsel for the Company and the reasonable fees and disbursements of one counsel for the selling Holders (the "**Selling Holders Counsel**"), shall be borne by the Company. Each Holder whose shares of Common Stock are being sold will bear, pro rata, underwriters' discounts and brokerage and other commissions, fees and disbursements of its own counsel (other than Selling Holders Counsel).

(g) **Underwriting Requirements.** In connection with any registration of shares of Common Stock under this Agreement and subject to Section 5.5(c)(iii), the Holders whose shares of Common Stock is included in the registration shall, if requested by the Company or the underwriters, enter into an underwriting agreement with such underwriters for such offering, such agreement to contain such terms and provisions as are customarily contained in underwriting agreements with respect to secondary distributions, including, without limitation, customary provisions relating to indemnification and contribution. The Holders on whose behalf shares of Common Stock are to be distributed shall also complete and execute all questionnaires, powers of attorney and/or other documents required under the terms of such underwriting agreement. Notwithstanding the foregoing, no holder of Equity Securities included in any underwritten registration shall be required to make any representations or warranties to the Company or the underwriters (other than representations and warranties regarding such holder, such holder's ownership of its shares of Equity Securities to be sold in the offering and such holder's intended method of distribution) or to undertake any indemnification obligations to the Company or the underwriters with respect thereto.

(h) **Indemnification.** In the event any shares of Common Stock are included in a registration statement pursuant to this Section 5.5:

(i) To the fullest extent permitted by law, the Company will indemnify and hold harmless each Holder joining in such registration and its directors and officers, any underwriter (as defined in the Securities Act) for it, and each Person, if any, who controls such Holder or such underwriter within the meaning of the Securities Act, from and against any losses, claims, damages, expenses (including reasonable attorneys' fees and expenses and reasonable costs of investigation) or liabilities, joint or several, to which they or any of them may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages, expenses or liabilities (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based on any untrue or alleged untrue statement of any material fact contained in such registration statement (including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements made therein not misleading in light of the circumstances under which they were made, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which damages may result, as such expenses

are incurred, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which damages may result, as such expenses are incurred *provided*, that the indemnity agreement contained in this Section 5.5(h)(i) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), nor shall the Company be liable for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon (i) an untrue statement or omission made in connection with such registration statement, preliminary prospectus, final prospectus or amendments or supplements thereto in reliance upon and in conformity with written information regarding ownership of shares and methods of distribution information furnished by such Holder, underwriter or control person to the Company specifically for inclusion in the registration statement in connection with such registration, or (ii) such Holder's failure to deliver a copy of the registration statement or prospectus or any amendments or supplements thereto after the Company has furnished such Holder with a sufficient number of copies of the same. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder, underwriter or control person and shall survive the Transfer of such securities by such Holder.

(ii) To the fullest extent permitted by law, each Holder joining in a registration shall indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each Person, if any, who controls the Company within the meaning of the Securities Act, and each agent and any underwriter for the Company and any Person who controls any such agent or underwriter and each other Holder and any Person who controls such Holder (within the meaning of the Securities Act) against any losses, claims, damages, expenses (including reasonable attorney's fees and expenses and reasonable costs of investigation) or liabilities to which the Company or any such director, officer, control person, agent, underwriter or other Holder may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon an untrue statement of any material fact regarding ownership of shares information furnished by such Holder specifically for inclusion in the registration statement in connection with such registration, *provided*, that the indemnity agreement contained in this Section 5.5(h)(ii) shall not apply to amounts paid in settlements effected without the consent of such Holder (which consent shall not be unreasonably withheld, conditioned or delayed), and *provided*, *further*, that in no event shall the aggregate amounts payable by any Holder by way of indemnity or contribution under Section 5.5(h)(ii) exceed the proceeds

from the offering received by such Holder (net of any selling expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Company or any such director, officer, Holder, underwriter or control person and shall survive the Transfer of such securities by such Holder.

(iii) Any Person seeking indemnification under this Section 5.5(h) will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification, but the failure to give such notice will not affect the right to indemnification hereunder, except to the extent the indemnifying party is actually prejudiced by such failure and (ii) unless in such indemnified party's reasonable judgment a conflict of interest may exist between such indemnified and indemnifying parties with respect to such claim, permit such indemnifying party, and other indemnifying parties similarly situated, jointly to assume the defense of such claim with counsel reasonably satisfactory to the parties, *provided*, *however*, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. In the event that the indemnifying parties cannot mutually agree as to the selection of counsel, each indemnifying party may retain separate counsel to act on its behalf and at its expense. The indemnified party shall in all events be entitled to participate in such defense at its expense through its own counsel. If such defense is not assumed by the indemnifying party, the indemnifying party will not be subject to any liability for any settlement made without its consent (but such consent will not be unreasonably withheld, conditioned or delayed). No indemnifying party will consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation. An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying party with respect to such claim.

(iv) If for any reason the foregoing indemnification is unavailable to any party or insufficient to hold it harmless as and to the extent contemplated by the preceding paragraphs of this Section 5.5(h), then each indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such loss, claim, damage, expense or liability in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party, on the one hand, and the applicable indemnified party,

as the case may be, on the other hand, and also the relative fault of the indemnifying party and any applicable indemnified party, as the case may be, as well as any other relevant equitable considerations, *provided*, *however*, that, in any such case no Holder will be required to contribute any amount in excess of the public offering price of all such Equity Securities offered and sold by such Holder pursuant to such registration statement; and *provided*, *further*, that in no event shall a Holder's liability pursuant to this Section 5.5(h) exceed the proceeds from the offering received by such Holder (net of any expenses paid by such Holder pursuant to Section 5.5(f)), except in the case of willful misconduct or fraud by such Holder. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person or entity who was not guilty of such fraudulent misrepresentation.

(v) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Section 5.5(h) shall survive the completion of any offering of Equity Securities in a registration under this Section 5.5, and otherwise shall survive the termination of this Agreement.

For the avoidance of doubt, the indemnity rights and obligations under this Section 5.5(h) shall be interpreted to be in addition to, and not in replacement of, any other indemnity that might otherwise be available to any Holder.

(i) **Shelf Registration.**

(i) At any time that the Company is eligible to register the Equity Securities on a registration statement on Form S-3, the Company shall use reasonable best efforts to file with the SEC one or more registration statements on Form S-3 with respect to the Equity Securities under the Securities Act for the offering to be made on a continuous basis pursuant to Rule 415 under the Securities Act (the "**Shelf Registration Statement**"). If such Shelf Registration Statement is not automatically declared effective by the SEC or does not automatically become effective, the Company shall use its reasonable best efforts to cause such Shelf Registration Statement to be declared effective by the SEC as soon as practicable after the filing thereof.

(ii) The Company shall use reasonable best efforts to keep any Shelf Registration Statement continuously effective for the period beginning on the date on which such Shelf Registration Statement is declared effective and ending on the date that all of the Equity Securities registered under the Shelf Registration Statement have been sold or have become freely tradable pursuant to Rule 144 without restriction or limitation. During the period that such Shelf Registration Statement is effective, the Company shall supplement or make amendments to the Shelf Registration

Statement, if required by the Act or if reasonably requested by the Holder of Equity Securities registered on such Shelf Registration Statement (whether or not required by the form on which the securities are being registered), including to reflect any specific plan of distribution or method of sale, and shall use its ~~commercially~~ reasonable best efforts to have such supplements and amendments declared effective, if required, as soon as practicable after filing.

(j) **Rule 144.** With a view to making available to the Holders and their Transferees the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration, the Company shall:

(i) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after the effective date of the registration statement for the Company's Initial Public Offering;

(ii) use its reasonable best efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (including, without limitation, under Section 12 or Section 14 of the Exchange Act), after it has become subject to such reporting requirements; and

(iii) furnish to any Holder forthwith upon request a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time ninety (90) days after the effective date the registration statement filed by the Company for the Company's Initial Public Offering), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), a copy of the most recent annual or quarterly report of the Company, and such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC permitting the selling of any such securities without registration.

(k) **Market Stand-Off Agreement.** If requested by the managing underwriter of the Initial Public Offering, or by the managing underwriter of a Public Offering for which shares of Common Stock of any Holders have been registered, all Holders (in the case of such Initial Public Offering) or all Holders holding in excess of two percent (2.0%) of the Company's then issued and outstanding shares of Common Stock (in the case of such other Public Offering) shall not sell or otherwise Transfer or dispose of any shares of Common Stock held by such Holders (other than those shares of Common Stock included in the registration) during such period following the effective date of such registration as is usual and customary at such time in similar public offerings of similar securities (such period not to exceed one hundred eighty (180) days in the case of the Company's Initial Public Offering and ninety (90) days in the case of any other Public Offering). The foregoing shall not apply to the sale of any securities to an underwriter pursuant to an underwriting agreement, or the Transfer of any shares of Common Stock to any trust for the direct or indirect benefit of the Holder or the Family Member of the Holder, *provided* that the trustee of the trust agrees to be bound in writing by the restrictions set forth herein, and

provided further that any such Transfer shall not involve a disposition for value. For the avoidance of doubt, this Section 5.5(k) shall apply to all Holders (in the case of an Initial Public Offering) or all Holders holding in excess of two percent (2.0%) of the Company's then issued and outstanding Common Stock (in the case of a Public Offering) whether or not such Holder has delivered a Joinder Agreement or agreed to be bound by this Agreement.

(l) **Termination of Registration Rights.** The right of any Holder to request registration or inclusion in any registration with respect to shares of Common Stock held by such Holder, pursuant to this Section 5.5, shall terminate on such date after the closing of the Initial Public Offering as all shares of Common Stock held by such Holder may immediately be sold under Rule 144 during any ninety (90) day period without compliance with any provisions contained therein other than the condition contained in Rule 144(b)(1)(i).

(m) **Preservation of Rights**. The Company shall not (i) grant any registration rights to third parties which are more favorable than or inconsistent with the rights granted hereunder, or (ii) enter into any agreement, take any action, or permit any change to occur, with respect to its securities that violates or subordinates the rights expressly granted to the holders of Equity Securities in this Agreement; provided that the restrictions set forth in this Section 5.5(m) shall not apply to any additional Stockholder who becomes a party to this Agreement pursuant to the terms hereof.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Entire Agreement; No Other Representations

This Agreement (including all exhibits hereto), together with the Charter, constitutes the entire agreement among the Stockholders, and supersedes all other prior agreements, understandings, representations and warranties both written and oral, among the parties hereto, with respect to the subject matter hereof.

Section 6.2 Modification or Amendment of Stockholders Agreement

Other than as a result of execution and delivery of a Joinder Agreement (including delivery of a Joinder Agreement by any employees, directors and/or officers of the Company and/or its Subsidiaries who receive Equity Securities or options to purchase Equity Securities issued in connection with awards, in each case issued or granted in accordance with the terms of any equity option or equity purchase plan or agreement or other benefit or management incentive plans approved by the Board), this Agreement may not be modified, altered, amended or supplemented except by an agreement in writing signed by the Stockholders holding at least sixty-seven percent (67%) of the issued and outstanding Voting Securities; provided, however, that (i) any amendment, modification or waiver of any provision of this Agreement that would eliminate or materially alter the right of any Designating Stockholder to appoint, remove or replace its Designated Director pursuant to Section 4.7(b) shall also require the approval of such Designating Stockholder and (ii) any amendment, modification or waiver of Section 4.6(c)(ii)

(and the proviso thereto) in connection with any modification of a class of Equity Securities shall also require the approval of the applicable Special Situations Supermajority.

Section 6.3 Waiver

No action taken pursuant to this Agreement, including any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representations, warranties, covenants or agreements contained herein. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any preceding or succeeding breach and no failure by any party to exercise any right or privilege hereunder shall be deemed a waiver of such party's rights or privileges hereunder or shall be deemed a waiver of such party's rights to exercise the same at any subsequent time or times hereunder.

Section 6.4 Counterparts

This Agreement may be executed and delivered in several counterparts (including by facsimile, .pdf or other electronic transmission), each of which shall be deemed an original and all of which shall together constitute one and the same instrument.

Section 6.5 Governing Law and Venue; Waiver of Jury Trial

(a) THIS AGREEMENT AND ALL DISPUTES BETWEEN THE PARTIES UNDER OR RELATING TO THIS AGREEMENT OR THE FACTS AND CIRCUMSTANCES LEADING TO ITS EXECUTION AND DELIVERY, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL BE GOVERNED BY AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANY OTHER STATE.

(b) Any action, suit or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the Transactions shall only be brought in any federal court located in the State of Delaware or any Delaware state court, and each party consents to the exclusive jurisdiction and venue of such courts (and of the appropriate appellate courts therefrom) in any such action, suit or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such, action, suit or proceeding in any such court or that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum; *provided*, *however*, that any action, suit or proceeding, seeking to enforce a final judgment rendered in such court may be brought in any court of competent jurisdiction. Process in any such action, suit or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, service of process on such party as provided in Section 6.6 shall be deemed effective service of process on such party.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE OUT OF OR RELATING TO THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY EXPRESSLY, IRREVOCABLY AND

UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION OR DISPUTE DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER AGREEMENTS RELATING HERETO OR ANY DEALINGS AMONG THEM RELATING TO THE TRANSACTIONS CONTEMPLATED HEREBY. THE SCOPE OF THIS WAIVER IS INTENDED TO ENCOMPASS ANY AND ALL ACTIONS, SUITS AND PROCEEDINGS THAT RELATE TO THE SUBJECT MATTER OF THE TRANSACTIONS CONTEMPLATED HEREBY, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY REPRESENTS AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) SUCH PARTY UNDERSTANDS AND WITH THE ADVICE OF COUNSEL HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY AND (iv) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND REPRESENTATIONS IN THIS SECTION 6.5(c). IN THE EVENT OF LITIGATION THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Section 6.6 Notices and Waivers

(a) Any notice or other communication in connection with this Agreement (each, a "**Notice**") shall be delivered by hand, fax, overnight carrier, registered post, by courier using an internationally recognized courier company or electronic mail.

(b) Notices to the Company shall be sent to the following address, or such other person or address as the Company may notify to the Stockholders from time to time:

Roadhouse Holding Inc.
c/o Logan's Roadhouse, Inc.
3011 Armory Drive, Suite 300
Nashville, Tennessee 37204
Fax No.: (615) 884-9813
Attention: [_]

and with a copy to:
King & Spalding LLP
1185 Avenue of the Americas
New York, New York 10036
Attention: Michael Rupe, Esq. mrupe@kslaw.com

(c) Notices to the Stockholders shall be sent to such Stockholders at the addresses set forth in the register of Stockholders maintained by the Company, or on any Joinder Agreement or such other address or facsimile number as such party or a Transferee of such party may hereafter specify in accordance with this Section 6.6 by notice to the party sending the communication.

The Company will provide a Stockholder with the addresses for the other Stockholders upon a written request for such information for the purpose of sending out a Notice in accordance with this Agreement.

(d) A Notice shall be effective upon receipt and shall be deemed to have been received:

(i) at the time of delivery, if delivered by hand, overnight carrier, registered post or courier;

(ii) at the expiration of two hours after completion of the transmission, if sent by facsimile; and

(iii) upon receipt of an email read receipt, if sent by email;

provided that if a Notice would become effective under the above provisions after 5.30 p.m. on any Business Day, then it shall be deemed instead to become effective at 9.30 a.m. on the next Business Day. References in this Agreement to time are to local time at the location of the addressee as set out in the Notice.

(e) Subject to the foregoing provisions of this Section 6.6, in proving service of a Notice, it shall be sufficient to prove that the envelope containing such Notice was properly addressed and delivered by hand, overnight carrier, registered post or courier to the relevant address pursuant to the above provisions or that the facsimile transmission report (call back verification) states that the communication was properly sent.

Section 6.7 Certain Adjustments

The provisions of this Agreement shall apply to the full extent set forth herein with respect to any and all shares of Common Stock and other Equity Securities or any equity securities of any successor or assign of the Company (whether by merger, consolidation, sale of assets or otherwise) which may be issued in respect of, in exchange for, or in substitution for the shares of Common Stock or other Equity Securities, by combination, recapitalization, reclassification, merger, consolidation or otherwise and the terms "**Common Stock**," "**Equity Securities**," and "**Preemptive Securities**" shall include all such other securities. In the event of any change in the capitalization of the Company, as a result of any split, dividend or combination or otherwise, in each case subject to the terms and conditions of this Agreement, the provisions of this Agreement shall be appropriately adjusted.

Section 6.8 Specific Performance

The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties hereto shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any state or federal court of Delaware (this being in addition to any other remedy to which they are entitled at law or in equity), and each party

hereto agrees to waive in any action for such enforcement the defense that a remedy at law would be adequate.

Section 6.9 Severability

The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 6.10 Assignment; Aggregation of Stock

(a) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and permitted assigns. Neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable by either the Company or any Stockholder except as otherwise expressly stated hereunder, including in connection with a Transfer of Equity Securities permitted hereunder, or with the prior written consent of each other party hereto. A Permitted Transferee who executes a Joinder Agreement in accordance with the provisions hereof may be assigned any rights available hereunder. All of the rights offered to a Stockholder under this Agreement are assignable to a Transferee of the Equity Securities thereof who executes a Joinder Agreement.

(b) All Equity Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and such affiliated persons may apportion such rights as among themselves in any manner they deem appropriate.

Section 6.11 Termination

The provisions of this Agreement, other than Section 5.1 shall terminate upon the consent of Stockholders holding at least sixty-seven percent (67%) of the issued and outstanding Voting Securities or upon the earlier of (i) the closing of an Initial Public Offering (and in such case Section 5.5 and all general provisions and terms necessary to interpret Section 5.5 shall survive), and (ii) the consummation of a Drag-Along Sale for all of the issued and outstanding Equity Securities (other than any equity issued to management). The provisions of this Agreement set forth in Article IV and Sections 3.1 and 3.2 shall terminate immediately prior to the effectiveness of the registration statement for an Initial Public Offering but such termination shall be expressly conditioned upon the consummation of an Initial Public Offering.

Section 6.12 Further Assurances

Each of the parties hereto covenants and agrees upon the request of any other to do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such

further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably necessary or desirable to give full effect to the provisions of this Agreement and the Transactions.

Section 6.13 Fees and Expenses

The Company will pay its internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties), the expenses of any annual audit or quarterly review, all tax preparation fees and expenses, and the expenses of any liability insurance, including directors' and officers' liability insurance.

Section 6.14 No Third-Party Beneficiaries

Nothing in this Agreement, express or implied, is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors and assigns any legal or equitable right, remedy or claim under or in respect of any agreement or provision contained herein.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Stockholders Agreement to be executed as of the Effective Date.

ROADHOUSE HOLDING INC.

By:_____
Name:
Title:

EXHIBIT A

JOINDER AGREEMENT

Whereas, the undersigned is acquiring simultaneously with the execution of this Agreement certain securities (the "**Equity Securities**") of Roadhouse Holding Inc., a Delaware corporation (the "**Company**");

Whereas, as a condition to the acquisition of the Equity Securities pursuant to this Agreement, the undersigned has agreed to join in a certain Stockholders Agreement (the "**Stockholders Agreement**") dated as of [_], 2016 among the Company and the Stockholders (as such term is defined in the Stockholders Agreement); and

Whereas, the undersigned understands that execution of this Agreement is a condition precedent to the acquisition of the Equity Securities.

Now, Therefore, as an inducement to both the [transferor/issuer] of the Equity Securities and the other Stockholders to [Transfer (as such term is defined in the Stockholders Agreement)/issue] and, in the case of [the Company and] the other Stockholders, to allow the [Transfer/issuance] of the Equity Securities to the undersigned, the undersigned hereby agrees as follows:

1. The undersigned hereby joins in the Stockholders Agreement as a "Stockholder" and agrees to be bound by the terms and provisions of, and shall be entitled to the benefits under, the Stockholders Agreement as provided by the Stockholders Agreement.

2. The undersigned hereby authorizes this signature page to be attached to a counterpart of such Agreement.

3. The undersigned hereby consents that the certificate or certificates representing the Equity Securities, if issued, shall be legended as follows (with such additions thereto or changes therein as the Company may be advised by counsel are required by law or necessary to give full effect to this Agreement):

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE WERE ORIGINALLY ISSUED ON [_], 2016 PURSUANT TO THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF ROADHOUSE HOLDING INC. AND ITS AFFILIATED DEBTORS, DATED AS OF SEPTEMBER 28, 2016 AND CONFIRMED BY THE BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, ON [_], 2016. THESE SECURITIES WERE ISSUED PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED, (THE "ACT") PROVIDED BY SECTION 1145 OF THE BANKRUPTCY CODE, 11 U.S.C. § 1145, AND HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAW, AND TO THE EXTENT THAT THE HOLDER OF THESE SECURITIES IS AN "UNDERWRITER" AS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE, THESE SECURITIES MAY NOT

BE TRANSFERRED, OFFERED, ASSIGNED, SOLD, DONATED, PLEDGED, HYPOTHECATED, ENCUMBERED OR OTHERWISE DISPOSED OF UNLESS (I) THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR SUCH APPLICABLE STATE SECURITIES LAWS OR (II) REGISTRATION UNDER THE ACT OR SUCH APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED IN CONNECTION WITH SUCH TRANSFER. THE SECURITIES REPRESENTED BY THIS CERTIFICATE CANNOT BE TRANSFERRED IN A TRANSACTION WHICH WOULD CAUSE THE COMPANY TO BE SUBJECT TO THE REPORTING REQUIREMENTS OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO (I) SIGNIFICANT RESTRICTIONS ON TRANSFER PURSUANT TO THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND (II) THE TERMS AND CONDITIONS OF A STOCKHOLDERS AGREEMENT DATED AS OF [_], 2016, AS THE SAME MAY BE AMENDED OR MODIFIED FROM TIME TO TIME PURSUANT TO THE TERMS THEREOF. THE STOCKHOLDERS AGREEMENT CONTAINS, AMONG OTHER THINGS, SIGNIFICANT RESTRICTIONS ON TRANSFER OF THE SECURITIES OF THE COMPANY. COPIES OF THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION AND THE STOCKHOLDERS AGREEMENT ARE ON FILE AT THE OFFICE OF THE COMPANY AND WILL BE FURNISHED WITHOUT CHARGE TO THE HOLDER OF SUCH SECURITY UPON WRITTEN REQUEST.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned has executed this Agreement this [__] day of [_], 20[_].

[~~SIGNTAURE~~SIGNATURE BLOCK]

Name:
Title:
Address:

EXHIBIT B

BOARD OF DIRECTORS

[TO COME]