

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2013-01-11** | Period of Report: **2013-01-07**
SEC Accession No. [0001193125-13-010874](#)

([HTML Version](#) on [secdatabase.com](#))

FILER

HEALTH CARE REIT INC /DE/

CIK: **766704** | IRS No.: **341096634** | State of Incorporation: **DE** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **001-08923** | Film No.: **13526049**
SIC: **6798** Real estate investment trusts

Mailing Address
4500 DORR STREET
TOLEDO OH 43615

Business Address
4500 DORR STREET
TOLEDO OH 43615
419-247-2800

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

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 OR 15(d) of
The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): January 7, 2013

Health Care REIT, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

1-8923
(Commission
File Number)

34-1096634
(I.R.S. Employer
Identification No.)

4500 Dorr Street, Toledo, Ohio
(Address of principal executive offices)

43615
(Zip Code)

Registrant's telephone number, including area code: (419) 247-2800

(Former name or former address, if changed since last report.)

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

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

Item 1.01 Entry Into a Material Definitive Agreement.

On January 7, 2013, Health Care REIT, Inc. (the “Company”) entered into a Credit Agreement (the “New Credit Agreement”) with the lenders identified therein, KeyBank National Association, as administrative agent, LC issuer and a swingline lender, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as co-syndication agents, Deutsche Bank Securities, Inc., as documentation agent, Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, KeyBanc Capital Markets Inc. and Deutsche Bank Securities Inc., as joint lead arrangers, and Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, as joint book managers. The New Credit Agreement consists of a \$2,250,000,000 unsecured revolving credit facility and a \$500,000,000 unsecured term credit facility and replaces the Company’s existing \$2,000,000,000 unsecured revolving credit facility.

The New Credit Agreement includes sublimits of (a) up to \$150,000,000 for letters of credits, (b) up to \$100,000,000 for swingline loans, (c) up to 50% of the revolving credit facility commitment amount for certain negotiated rate loans, and (d) up to \$500,000,000 for borrowings (including letters of credit) under certain alternative currencies. Each of the sublimits are part of, and not in addition to, the amounts available under the revolving credit facility.

The maturity dates for the revolving credit facility and the term credit facility are March 31, 2017 and March 31, 2016, respectively, provided that, (a) the maturity date of the revolving credit facility may be extended an additional year if no event of default has occurred under the New Credit Agreement and the Company pays a non-refundable fee of 0.15% of the total revolving credit facility then in effect and (b) the maturity date of the term credit facility may be extended for two one-year periods if no event of default under the New Credit Agreement has occurred and the Company pays, for each one-year period, a non-refundable fee of 0.125% of the term credit facility then in effect. The Company has the right to increase the amount available under the credit facilities up to an additional \$1,000,000,000 so long as no default or event of default exists or would exist and commitments for such increase have been received. The lenders would have the right, but not the obligation, to commit to all or a portion of such increase.

Revolving loans and term loans bear interest at the applicable margin plus the applicable base rate or LIBOR interest rate, at the Company’s option. Negotiated rate loans bear interest at the rate agreed to between the Company and the applicable lender. Swingline loans bear interest at the applicable base rate plus the applicable margin. Letter of credit fees equal the applicable margin multiplied by the daily amount available to be drawn under such letters of credit. The applicable margins are based on the Company’s ratings established by certain debt rating agencies for the Company’s long term, senior, unsecured non-credit enhanced debt (the “Company’s Debt Ratings”). Based on the current Company’s Debt Ratings, the applicable margins are as follows: (a) for a revolving loan, 1.175% for a LIBOR loan or 0.175% for a base rate loan; (b) for a term loan, 1.350% for a LIBOR loan or 0.350% for a base rate loan; (c) for a swingline loan, 1.175%; and (d) for letter of credit fees, 1.175%.

For the revolving credit facility, the Company is obligated to pay an annual facility fee equal to the product of the applicable rate multiplied by the revolving credit facility amount with such rate based on the Company’s Debt Ratings. The current applicable rate for the facility fee for the revolving credit facility is 0.225%. For the term credit facility, the Company is obligated to pay a commitment fee equal to the product of 0.175% multiplied by the daily average amount of the aggregate commitments for the term credit facility for the period starting on the closing date of the New Credit Agreement and ending on the earlier of the (a) the date the term loan is made or (b) 60 days after the closing date. For letters of credit, the Company is obligated to pay a fronting fee of 0.125% on the face amount and subsequent increases of such amounts of such letters of credit and customary fees and standard costs of the issuers of such letters of credit.

The New Credit Agreement includes customary representations and warranties by the Company and imposes customary covenants on the Company. The New Credit Agreement also contains customary events of default, and if an event of default occurs and continues, the Company is subject to certain actions by the administrative agent, including without limitation, the acceleration of repayment of all amounts outstanding under the New Credit Agreement.

Certain of the parties to the New Credit Agreement and/or their affiliates have provided and in the future may provide investment banking, commercial banking and/or advisory services to the Company for which they have in the past received, and may in the future receive, customary fees and expenses.

The foregoing description does not purport to be complete and is qualified in its entirety by reference to the full text of the New Credit Agreement, a copy of which is filed herewith as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated in this Item 1.01 by reference.

The representations, warranties and covenants contained in the New Credit Agreement were made as of a specified date, may be subject to a contractual standard of materiality different from what might be viewed as material to investors, or may have been used for the purpose of allocating risk among the parties thereto. Accordingly, the representations and warranties in the New Credit Agreement are not necessarily characterizations of the actual state of facts of the Company and its subsidiaries at the time they were made or otherwise and should be read only in conjunction with the other information that the Company makes publicly available in reports, statements and other documents filed with the Securities and Exchange Commission. Investors are not third-party beneficiaries of, and should not rely upon, such representations, warranties and covenants.

A copy of the press release issued by the Company on January 8, 2013 announcing the closing of the New Credit Agreement is filed herewith as Exhibit 99.1 and incorporated by reference in this Item 1.01 by reference.

Item 1.02 Termination of a Material Definitive Agreement.

Effective January 7, 2013, the Fifth Amended and Restated Loan Agreement, dated as of July 27, 2011 (the "Prior Credit Agreement"), by and among the Company, the lenders identified therein, Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, as joint lead arrangers and joint book managers, KeyBanc Capital Markets Inc., as a joint lead arranger, Deutsche Bank Securities Inc., as a joint lead arranger and documentation agent, KeyBank National Association, as administrative agent, and Bank of America, N.A. and JPMorgan Chase Bank, N.A., as co-syndication agents, and all commitments provided thereunder, were terminated. The Company had repaid all amounts due and outstanding under the Prior Credit Agreement on or prior to this date.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On January 9, 2013, the Company completed its previously announced acquisition of the real estate business of Sunrise Senior Living, Inc. ("Sunrise") pursuant to the terms of the Agreement and Plan of Merger, dated as of August 21, 2012 (as amended, the "Merger Agreement"), by and among Sunrise, Brewer Holdco, Inc., a wholly owned subsidiary of Sunrise ("Holdco"), Brewer Holdco Sub, Inc., a wholly owned subsidiary of Holdco ("Holdco Sub"), the Company and Red Fox, Inc., a wholly owned subsidiary of the Company ("Merger Sub"), for an investment amount of approximately \$3.4 billion (the "Acquisition").

On January 9, 2013 and prior to the completion of the Acquisition, (a) Sunrise completed the previously announced sale of its management business to Red Fox Holding Corporation, a wholly owned subsidiary of Red Fox Management, LP (the "Management Business Purchaser"), pursuant to the terms of the Membership Interest Purchase Agreement, dated as of September 13, 2012, by and among Sunrise, Holdco and the Management Business Purchaser, (b) the Company acquired a 20% interest in the Management Business Purchaser and (c) Holdco distributed the previously announced special dividend of \$2.10 in cash per share to be paid to holders of Sunrise common stock as of the close of business on January 8, 2013.

As a result of these transactions and in accordance with the Merger Agreement, each former share of Sunrise common stock was converted into the right to receive an aggregate consideration of \$14.50 in cash per share (comprised of \$12.40 in cash per share as merger consideration and \$2.10 in cash per share as a special dividend).

The Company funded the Acquisition through cash on hand, including a portion of the net proceeds from the public issuance and sale of certain of the Company's securities, and funds available under the New Credit Agreement.

On January 9, 2013, the Company issued a press release regarding the completion of the Acquisition. A copy of the press release is filed herewith as Exhibit 99.2 and is incorporated herein by reference.

The foregoing description of the Merger Agreement and the transactions contemplated thereby does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Merger Agreement that was filed with the Securities and Exchange Commission as Exhibit 2.1 to the Company's Current Report on Form 8-K filed on August 22, 2012, and is incorporated herein by reference.

The Merger Agreement and the above description of the Merger Agreement have been included to provide investors and security holders with information regarding the terms of the Merger Agreement, and are not intended to provide any other factual information about the Company, Sunrise or their respective subsidiaries or affiliates. The representations and warranties contained in the Merger Agreement were made only for purposes of that agreement and as of specific dates, were solely for the benefit of the parties to the Merger Agreement, may be subject to a contractual standard of materiality different from what might be viewed as material to stockholders, and may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures made by the parties to each other. Investors should not rely on the representations and warranties as characterizations of the actual state of facts or condition of the Company, Sunrise or any of their respective subsidiaries, affiliates or businesses.

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

The information included in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 9.01 *Financial Statements and Exhibits.*

(a) Financial statements of businesses acquired.

To the extent required by this item, the financial statements required by Item 9.01(a) of Form 8-K will be filed by amendment no later than 71 calendar days after the date this Current Report on Form 8-K is required to be filed.

(b) Pro forma financial information.

To the extent required by this item, the pro forma financial information required by Item 9.01(b) of Form 8-K will be filed by amendment no later than 71 calendar days after the date this Current Report on Form 8-K is required to be filed.

(d) Exhibits.

- 2.1 Agreement and Plan of Merger, dated as of August 21, 2012, by and among Sunrise Senior Living, Inc., Brewer Holdco, Inc., Brewer Holdco Sub, Inc., Health Care REIT, Inc. and Red Fox, Inc. (the exhibits and schedules to the Merger Agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K) (filed with the Securities and Exchange Commission as Exhibit 2.1 to the Company' s Form 8-K filed August 22, 2012, and incorporated herein by reference thereto)
- 10.1 Credit Agreement dated as of January 7, 2013, by and among Health Care REIT, Inc., the lenders listed therein, KeyBank National Association, as administrative agent, LC issuer and a swingline lender, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as co-syndication agents, Deutsche Bank Securities, Inc., as documentation agent, Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, KeyBanc Capital Markets Inc. and Deutsche Bank Securities Inc., as joint lead arrangers, and Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, as joint book managers
- 99.1 Press release issued on January 8, 2013
- 99.2 Press release issued on January 9, 2013

Exhibit Index

- 2.1 Agreement and Plan of Merger, dated as of August 21, 2012, by and among Sunrise Senior Living, Inc., Brewer Holdco, Inc., Brewer Holdco Sub, Inc., Health Care REIT, Inc. and Red Fox, Inc. (the exhibits and schedules to the Merger Agreement have been omitted pursuant to Item 601(b)(2) of Regulation S-K) (filed with the Securities and Exchange Commission as Exhibit 2.1 to the Company' s Form 8-K filed August 22, 2012, and incorporated herein by reference thereto)
- 10.1 Credit Agreement dated as of January 7, 2013, by and among Health Care REIT, Inc., the lenders listed therein, KeyBank National Association, as administrative agent, LC issuer and a swingline lender, Bank of America, N.A. and JPMorgan Chase Bank, N.A., as co-syndication agents, Deutsche Bank Securities, Inc., as documentation agent, Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, KeyBanc Capital Markets Inc. and Deutsche Bank Securities Inc., as joint lead arrangers, and Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, as joint book managers
- 99.1 Press release issued on January 8, 2013
- 99.2 Press release issued on January 9, 2013

CREDIT AGREEMENT

Dated as of January 7, 2013

among

HEALTH CARE REIT, INC.,

as the Borrower

KEYBANK NATIONAL ASSOCIATION,

as Administrative Agent, LC Issuer and a Swingline Lender

and

The Other Lenders Party Hereto

BANK OF AMERICA, N.A. and JPMORGAN CHASE BANK, N.A.,

as Co-Syndication Agents

DEUTSCHE BANK SECURITIES INC.,

as Documentation Agent

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
J.P. MORGAN SECURITIES LLC, KEYBANC CAPITAL MARKETS INC. and
DEUTSCHE BANK SECURITIES INC.,**

as Joint Lead Arrangers

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED and
J.P. MORGAN SECURITIES LLC,**

as Joint Book Managers

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS AND ACCOUNTING TERMS	1
Section 1.01 Defined Terms	1
Section 1.02 Other Interpretive Provisions	32
Section 1.03 Accounting Terms	33
Section 1.04 Rounding	34
Section 1.05 Times of Day	34
Section 1.06 Exchange Rates; Currency Equivalents	34
Section 1.07 Additional Alternative Currencies	34
Section 1.08 Change of Currency	35
Section 1.09 Letter of Credit Amounts	36
ARTICLE II COMMITMENTS AND CREDIT EXTENSIONS	36
Section 2.01 Loans	36
Section 2.02 Borrowings, Conversions and Continuations of Loans	40
Section 2.03 Letters of Credit	42
Section 2.04 Swingline Loans	51
Section 2.05 Prepayments	54
Section 2.06 Termination or Reduction of Commitments	56
Section 2.07 Repayment of Loans	57
Section 2.08 Interest and Default Rate	57
Section 2.09 Fees	58
Section 2.10 Computation of Interest and Fees	59
Section 2.11 Evidence of Debt	59
Section 2.12 Payments Generally; Administrative Agent' s Clawback	60
Section 2.13 Sharing of Payments by Lenders	62
Section 2.14 Cash Collateral	64
Section 2.15 Defaulting Lenders	65
Section 2.16 Increase in Revolving Facility	67
Section 2.17 Incremental Term Loan Commitments	69
Section 2.18 Extension of Maturity Date for Revolving Facility	70
Section 2.19 Extension of Maturity Date for Term Facility	70
ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY	70
Section 3.01 Taxes	70
Section 3.02 Illegality	75
Section 3.03 Inability to Determine Rates	75
Section 3.04 Increased Costs; Reserves on Eurodollar Rate Loans	76
Section 3.05 Compensation for Losses	78
Section 3.06 Mitigation Obligations; Replacement of Lenders	78
Section 3.07 Survival	79
ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS	79
Section 4.01 Conditions of Initial Credit Extension	79
Section 4.02 Conditions to all Credit Extensions	81

ARTICLE V REPRESENTATIONS AND WARRANTIES	81
Section 5.01 Organization	81
Section 5.02 Power, Authority, Consents	82
Section 5.03 No Violation of Law or Agreements	82
Section 5.04 Due Execution, Validity, Enforceability	82
Section 5.05 Title to Properties	83
Section 5.06 Judgments, Actions, Proceedings	83
Section 5.07 No Defaults, Compliance With Laws	83
Section 5.08 Burdensome Documents	83
Section 5.09 Financial Statements; Projections	83
Section 5.10 Tax Returns	84
Section 5.11 Intangible Assets	84
Section 5.12 Regulation U	84
Section 5.13 Name Changes, Mergers, Acquisitions	85
Section 5.14 Full Disclosure	85
Section 5.15 Licenses and Approvals	85
Section 5.16 ERISA	85
Section 5.17 REIT Status	86
Section 5.18 OFAC	86
ARTICLE VI AFFIRMATIVE COVENANTS	86
Section 6.01 Financial Statements	86
Section 6.02 Books and Records	90
Section 6.03 Inspections and Audits	90
Section 6.04 Maintenance and Repairs	90
Section 6.05 Continuance of Business	90
Section 6.06 Copies of Corporate Documents	90
Section 6.07 Perform Obligations	91
Section 6.08 Notice of Litigation	91
Section 6.09 Financial Covenants	91
Section 6.10 Insurance	92
Section 6.11 Notice of Certain Events	92
Section 6.12 Comply with ERISA	92
Section 6.13 Environmental Compliance	92
Section 6.14 Maintenance of REIT Status; Listing on National Securities Exchange	93
Section 6.15 Use of Proceeds	93
ARTICLE VII NEGATIVE COVENANTS	93
Section 7.01 Indebtedness	93
Section 7.02 Liens	94
Section 7.03 Intentionally Omitted	94
Section 7.04 Mergers, Acquisitions	94
Section 7.05 Distributions	95
Section 7.06 Changes in Structure	95
Section 7.07 Disposition of Assets	95
Section 7.08 Investments	95
Section 7.09 Fiscal Year	96

Section 7.10	ERISA Obligations	96
Section 7.11	Intentionally Omitted	96
Section 7.12	Transactions with Affiliates	96
Section 7.13	Hazardous Material	97
Section 7.14	Construction Investments	97
ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES		97
Section 8.01	Events of Default	97
Section 8.02	Remedies upon Event of Default	100
Section 8.03	Application of Funds	101
ARTICLE IX ADMINISTRATIVE AGENT		102
Section 9.01	Appointment and Authority	102
Section 9.02	Rights as a Lender	102
Section 9.03	Exculpatory Provisions	103
Section 9.04	Reliance by Administrative Agent	104
Section 9.05	Delegation of Duties	104
Section 9.06	Resignation of Administrative Agent	105
Section 9.07	Non-Reliance on Administrative Agent and Other Lenders	106
Section 9.08	No Other Duties, Etc.	106
Section 9.09	Administrative Agent May File Proofs of Claim	106
ARTICLE X MISCELLANEOUS		107
Section 10.01	Amendments, Etc.	107
Section 10.02	Notices; Effectiveness; Electronic Communications	109
Section 10.03	No Waiver; Cumulative Remedies; Enforcement	111
Section 10.04	Expenses; Indemnity; Damage Waiver	112
Section 10.05	Payments Set Aside	114
Section 10.06	Successors and Assigns	114
Section 10.07	Treatment of Certain Information; Confidentiality	119
Section 10.08	Right of Setoff	120
Section 10.09	Interest Rate Limitation	121
Section 10.10	Counterparts; Integration; Effectiveness	121
Section 10.11	Survival of Representations and Warranties	121
Section 10.12	Severability	122
Section 10.13	Replacement of Lenders	122
Section 10.14	Governing Law; Jurisdiction; Etc.	123
Section 10.15	Waiver of Jury Trial	124
Section 10.16	No Advisory or Fiduciary Responsibility	124
Section 10.17	Electronic Execution of Assignments and Certain Other Documents	125
Section 10.18	Automatic Alternative Currency Conversion	125
Section 10.19	Judgment Currency	125
Section 10.20	USA PATRIOT Act Notice	126
Section 10.21	Termination of Existing Loan Agreement	126

SCHEDULES

Schedule 1.01(a)	Certain Addresses for Notices
Schedule 1.01(b)	Initial Commitments and Applicable Percentages
Schedule 1.01(c)	Existing Letters of Credit
Schedule 1.01(d)	Mandatory Cost
Schedule 5.02	Consents, Waivers, Approvals; Violation of Agreements
Schedule 5.06	Judgments, Actions, Proceedings
Schedule 5.07	Defaults; Compliance with Laws, Regulations, Agreements
Schedule 5.08	Burdensome Documents
Schedule 5.13	Name Changes, Mergers, Acquisitions
Schedule 5.16	Employee Benefit Plans
Schedule 7.01	Permitted Indebtedness and Guarantees
Schedule 7.02	Permitted Security Interests

EXHIBITS

Exhibit A	Form of Administrative Questionnaire
Exhibit B	Form of Assignment and Assumption
Exhibit C	Form of Compliance Certificate
Exhibit D-1	Form of Loan Notice
Exhibit D-2	Form of Swingline Loan Notice
Exhibit E-1	Form of Bid Loan Quote Request
Exhibit E-2	Form of Bid Loan Quote
Exhibit F-1	Form of Revolving Note
Exhibit F-2	Form of Bid Loan Note
Exhibit F-3	Form of Swingline Note
Exhibit F-4	Form of Term Note
Exhibit G	Form of Officer' s Certificate
Exhibit H-1	Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-2	Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-3	Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H-4	Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)
Exhibit I	Form of Funding Indemnity Letter

CREDIT AGREEMENT

This **CREDIT AGREEMENT** is entered into as of January 7, 2013, among:

HEALTH CARE REIT, INC., a Delaware corporation (the “Borrower”);

Each Lender from time to time party hereto (individually, a “Lender” and collectively, the “Lenders”); and

KEYBANK NATIONAL ASSOCIATION, a national banking association, as Administrative Agent.

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower has requested that the Lenders, the Swingline Lender and the L/C Issuer provide revolving credit and term loan facilities and other financial accommodations to the Borrower for the purposes set forth herein; and

WHEREAS, the Lenders, the Swingline Lender and the L/C Issuer have agreed to provide such revolving credit and term loan facilities and such other financial accommodations to the Borrower on the terms and subject to the conditions set forth herein;

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

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

“Absolute Rate” has the meaning assigned to such term in Section 2.01(c)(ii)(C).

“Act” has the meaning assigned to such term in Section 10.20.

“Administrative Agent” means KeyBank National Association in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 1.01(a) with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

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

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement.

“Agreement Currency” has the meaning assigned to such term in Section 10.19.

“Alternative Currency” means each of Australian Dollars, Euros, Canadian Dollars, Sterling, Swiss Francs, Yen and Dollars and each other currency that is approved in accordance with Section 1.07.

“Alternative Currency Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as reasonably determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

“Alternative Currency Tranche L/C Exposure” means, at any time, (i) the aggregate undrawn amount of all outstanding Alternative Currency Tranche Letters of Credit at such time and (ii) the aggregate amount of all L/C Disbursements in respect of Alternative Currency Tranche Letters of Credit that have not yet been reimbursed by or on behalf of the Borrower at such time. The Alternative Currency Tranche L/C Exposure of any Revolving Lender at any time shall be its Applicable Alternative Currency Tranche Percentage of the total Alternative Currency Tranche L/C Exposure at such time.

“Alternative Currency Tranche Letter of Credit” means a Letter of Credit denominated in an Alternative Currency.

“Alternative Currency Tranche Revolving Borrowing” means a borrowing consisting of simultaneous Alternative Currency Tranche Revolving Loans of the same Type, in the same currency and having the same Interest Period made by each of the Alternative Currency Tranche Revolving Lenders pursuant to Section 2.01(b)(ii).

“Alternative Currency Tranche Revolving Commitment” means, as to each Alternative Currency Tranche Revolving Lender, its obligation to make Alternative Currency Tranche Revolving Loans to the Borrower pursuant to Section 2.01(b) in an aggregate principal amount at any one time outstanding the Dollar Equivalent of which does not exceed the Dollar amount set forth opposite such Lender’s name on Schedule 1.01(b) under the caption “Alternative Currency Tranche Revolving Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The Alternative Currency Tranche Revolving Commitments of all of the Alternative Currency Tranche Revolving Lenders on the Closing Date shall be \$500,000,000.

“Alternative Currency Tranche Revolving Exposure” means, as to any Alternative Currency Tranche Revolving Lender at any time, (i) the Outstanding Amount at such time of such Lender’ s Alternative Currency Tranche Revolving Loans plus (ii) the Outstanding Amount of such Lender’ s participation in L/C Obligations with respect to Alternative Currency Tranche Letters of Credit, in each case, at such time.

“Alternative Currency Tranche Revolving Lender” means, at any time, (a) so long as any Alternative Currency Tranche Revolving Commitment is in effect, any Lender that has an Alternative Currency Tranche Revolving Commitment at such time or (b) if the Alternative Currency Tranche Revolving Commitments have terminated or expired, any Lender that has an Alternative Currency Tranche Revolving Loan at such time.

“Alternative Currency Tranche Revolving Loan” has the meaning specified in Section 2.01(b)(ii).

“Applicable Alternative Currency Tranche Percentage” means with respect to any Alternative Currency Tranche Revolving Lender at any time, such Alternative Currency Tranche Revolving Lender’ s Applicable Percentage in respect of the Alternative Currency Tranche Revolving Commitments of all Alternative Currency Tranche Lenders at such time.

“Applicable Percentage” means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) at any time during the Availability Period in respect of the Term Facility, such Term Lender’ s Term Commitment at such time and (ii) thereafter, the outstanding principal amount of such Term Lender’ s Term Loans at such time; (b) in respect of the Revolving Facility, with respect to any Revolving Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Facility represented by such Revolving Lender’ s Revolving Commitment at such time, subject to adjustment as provided in Section 2.15; (c) in respect of the U.S. Tranche Revolving Commitments, with respect to any U.S. Tranche Revolving Lender at any time, the percentage (carried out to the ninth decimal place) of the U.S. Tranche Revolving Commitments of all U.S. Tranche Revolving Lenders represented by such U.S. Tranche Revolving Lender’ s Revolving Commitment at such time and (d) in respect of the Alternative Currency Tranche Revolving Commitments, with respect to any Alternative Currency Tranche Revolving Lender at any time, the percentage (carried out to the ninth decimal place) of the Alternative Currency Tranche Revolving Commitments of all Alternative Currency Tranche Revolving Lenders represented by such Alternative Currency Tranche Revolving Lender’ s Revolving Commitment at such time. If the Commitments of all of the Lenders to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02, or if the Commitments have expired, then the Applicable Percentage of each Lender in respect of the applicable Facility shall be determined based on the Applicable Percentage of such Lender in respect of such Facility most recently in effect, giving effect to any subsequent assignments. The Applicable Percentage of each Lender in respect of each Facility is initially as set forth opposite the name of such Lender on Schedule 1.01(b) or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto or in any documentation executed by such Lender pursuant to Section 2.16, as applicable.

“Applicable Rate” means, for any day, the rate per annum set forth below opposite the applicable Level then in effect (corresponding to the Rating of the Borrower in effect from time to time as shown below), it being understood that the Applicable Rate for (a) Revolving Loans that are Eurodollar Rate Loans shall be the percentage set forth under the columns “Revolving Loans” and “Eurodollar Rate”, (b) Revolving Loans that are Base Rate Loans shall be the percentage set forth under the columns “Revolving Loans” and “Base Rate”, (c) that portion of the Term Loan comprised of Eurodollar Rate Loans shall be the percentage set forth under the columns “Term Loan” and “Eurodollar Rate”, (d) that portion of the Term Loan comprised of Base Rate Loans shall be the percentage set forth under the columns “Term Loan” and “Base Rate”, (e) Swingline Loans shall be the percentage set forth under the column “Swingline Loans”, (f) the Letter of Credit Fee shall be the percentage set forth under the column “Letter of Credit Fee” and (g) the Facility Fee shall be the percentage set forth under the column “Facility Fee”.

Applicable Rate

Level	Revolving Loans		Term Loan		Swingline Loans	Letter of Credit Fee	Facility Fee
	Eurodollar Rate	Base Rate	Eurodollar Rate	Base Rate			
<u>Level 1</u> ≥ A- from S&P or Fitch or ≥ A3 from Moody' s	1.000 %	0.100 %	1.100 %	0.100 %	1.000 %	1.000 %	0.150 %
<u>Level 2</u> BBB+ from S&P or Fitch or Baa1 from Moody' s	1.075 %	0.105 %	1.200 %	0.200 %	1.075 %	1.075 %	0.175 %
<u>Level 3</u> BBB from S&P or Fitch or Baa2 from Moody' s	1.175 %	0.175 %	1.350 %	0.350 %	1.175 %	1.175 %	0.225 %

Applicable Rate

Level	Revolving Loans		Term Loan		Swingline Loans	Letter of Credit Fee	Facility Fee
	Eurodollar Rate	Base Rate	Eurodollar Rate	Base Rate			
<u>Level 4</u>							
BBB- from S&P or Fitch or Baa3 from Moody' s	1.450 %	0.450 %	1.700 %	0.700 %	1.450 %	1.450 %	0.300 %
<u>Level 5</u>							
<BBB- from S&P or Fitch or Baa3 from Moody' s or unrated from S&P, Fitch or Moody' s	1.750 %	0.750 %	2.050 %	1.050 %	1.750 %	1.750 %	0.350 %

For purposes of the foregoing: (a)(i) at any time when the Borrower has Ratings from only two (2) Ratings Agencies, if the Ratings established by such Ratings Agencies shall fall within different levels and (A) the difference between such Ratings is one ratings category (e.g. Baa2 by Moody' s and BBB- by S&P or Fitch) the Applicable Rate shall be based upon the higher of the two Ratings, or (B) the difference between such Ratings is two ratings categories (e.g. Baa1 by Moody' s and BBB- by S&P or Fitch) or more, the median of the applicable Ratings shall apply and (ii) at any time when the Borrower has Ratings from all three (3) Ratings Agencies, if the Ratings established by such Ratings Agencies shall fall within different levels and (A) the difference between the highest and the lowest such Ratings is one ratings category (e.g. Baa2 by Moody' s and BBB- by S&P or Fitch), the highest of such Ratings shall apply, or (B) the difference between such Ratings is two ratings categories (e.g. Baa1 by Moody' s and BBB- by S&P or Fitch) or more, the average of the two (2) highest Ratings shall apply, provided that if such average is not a recognized rating category, then the second highest Rating of the three shall apply; and (b) if any Rating shall be changed (other than as a result of a change in the rating system of the applicable Ratings Agency), such change shall be effective as of the date on which it is first announced by the Ratings Agency making such change. Each such change in the Applicable Rate shall apply to all outstanding Eurodollar Rate Loans, Swingline Loans, Base Rate Loans and Letters of Credit during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. The Borrower shall notify the Administrative Agent in writing immediately upon any change in its Ratings. If the rating system of any Ratings Agency shall change, the parties hereto shall

negotiate in good faith to amend the references to specific ratings in this definition to reflect such changed rating system.

“Applicable Revolving Percentage” means, with respect to any Revolving Lender at any time, such Revolving Lender’s Applicable Percentage in respect of the Revolving Facility at such time.

“Applicable U.S Tranche Percentage” means, with respect to any U.S. Tranche Revolving Lender at any time, such U.S. Tranche Revolving Lender’s Applicable Percentage in respect of the U.S. Tranche Revolving Commitments of all U.S. Tranche Revolving Lenders at such time.

“Applicable Time” means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the applicable L/C Issuer, as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“Appropriate Lender” means, at any time, (a) with respect to any Facility, a Lender that has a Commitment with respect to such Facility or holds a Loan under such Facility at such time, (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03, the U.S. Tranche Revolving Lenders and the Alternative Currency Tranche Revolving Lenders, as applicable, and (c) with respect to the Swingline Sublimit, (i) the Swingline Lender and (ii) if any Swingline Loans are outstanding pursuant to Section 2.04(a), the Revolving Lenders.

“Approved Currency” means each of Dollars and each Alternative Currency.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arrangers” means (x) Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, each in its capacity as joint book managers and (y) Merrill Lynch, Pierce, Fenner & Smith Incorporated, J.P. Morgan Securities LLC, KeyBanc Capital Markets Inc. and Deutsche Bank Securities Inc., each in its capacity as joint lead arrangers.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit B or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

“Australian Dollars” or “AUD” means the lawful currency of the Commonwealth of Australia.

“Automatic Alternative Currency Conversion Date” means any date on which the Automatic Alternative Currency Conversion Trigger shall have occurred.

“Automatic Alternative Currency Conversion Trigger” means either (a) an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States shall have occurred or (b) the Commitments shall have been terminated prior to the Maturity Date and/or the Loans shall have been declared immediately due and payable, in either case pursuant to Article VIII.

“Availability Period” means (a) in respect of the U.S. Tranche Revolving Commitments, the period from and including the Closing Date to the earliest of (i) the Maturity Date for the Revolving Facility, (ii) the date of termination of the U.S. Tranche Revolving Commitments pursuant to Section 2.06 and (iii) the date of termination of the Commitment of each U.S. Tranche Lender to make Revolving Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02; (b) in respect of the Alternative Currency Tranche Revolving Commitments, the period from and including the Closing Date to the earliest of (i) the Maturity Date for the Revolving Facility, (ii) the date of termination of the Alternative Currency Tranche Revolving Commitments pursuant to Section 2.06 and (iii) the date of termination of the Commitment of each Alternative Currency Tranche Revolving Lender to make Revolving Alternative Currency Tranche Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02 and (c) in respect of the Term Facility, the period from and including the Closing Date to the earliest of (i) the date that falls sixty (60) days after the Closing Date, (ii) the Maturity Date for the Term Facility and (iii) the date of termination of the commitments of the Term Lenders to make Term Loans.

“Basel III” means the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the Closing Date.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by KeyBank National Association as its “prime rate,” and (c) the Eurodollar Rate plus 1.00%. The “prime rate” is a rate set by KeyBank National Association based upon various factors including KeyBank National Association’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by KeyBank National Association shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Loan” means a U.S. Tranche Revolving Loan or a Term Loan that bears interest based on the Base Rate.

“Bid Loan” has the meaning assigned to such term in Section 2.01(c)(i).

“Bid Loan Borrowing” has the meaning assigned to such term in Section 2.01(c)(i).

“Bid Loan Note” means a Bid Loan Note made by the Borrower, in substantially the form of Exhibit F-2, payable to the order of a Lender, evidencing the obligation of the Borrower to repay the Bid Loans made by such Lender, and includes any Bid Loan Note issued in exchange or substitution therefor.

“Bid Loan Quote” has the meaning assigned to such term in Section 2.01(c)(ii).

“Bid Loan Quote Request” has the meaning assigned to such term in Section 2.01(c)(ii).

“Bid Loan Sublimit” means an amount equal to fifty percent (50%) of the aggregate Revolving Commitments. The Bid Loan Sublimit is part of, and not in addition to, the Revolving Facility.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.01.

“Borrowing” means a Revolving Borrowing, a Bid Loan Borrowing, a Swingline Borrowing or a Term Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office with respect to Obligations denominated in Dollars is located and:

(a) if such day relates to any interest rate settings as to a Eurodollar Rate Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurodollar Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, means any such day that is also a London Banking Day;

(b) if such day relates to any interest rate settings as to a Eurodollar Rate Loan denominated in Euro, any fundings, disbursements, settlements and payments in Euro in respect of any such Eurodollar Rate Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan, means a TARGET Day;

(c) if such day relates to any interest rate settings as to a Eurodollar Rate Loan denominated in a currency other than Dollars or Euro, means any such day on which dealings in deposits in the relevant currency are conducted by and between banks in the London or other applicable offshore interbank market for such currency; and

(d) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Dollars or Euro in respect of a Eurodollar Rate Loan denominated in a currency other than Dollars or Euro, or any other dealings in any currency other than Dollars or Euro to be carried out pursuant to this Agreement in respect of any such Eurodollar Rate Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

“Canadian Dollars” and “C\$” mean the lawful currency of Canada.

“Capitalized Lease” means any lease, the obligations to pay rent or other amounts under which constitute Capitalized Lease Obligations.

“Capitalized Lease Obligations” means, as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property which obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer or the Lenders, as collateral for L/C Obligations, the Obligations, or obligations of the Revolving Lenders to fund participations in respect of L/C Obligations, (a) cash or deposit account balances, (b) backstop letters of credit entered into on terms, from issuers and in amounts satisfactory to the Administrative Agent and the L/C Issuer and/or (c) if the Administrative Agent and the L/C Issuer shall agree, in their sole discretion, other credit support, in each case, in Dollars and pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such Cash Collateral and other credit support.

“CERCLA” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601, et seq.

“CFC” means a Person that is a controlled foreign corporation under Section 957 of the Code.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Closing Date” means the date hereof.

“Code” means the Internal Revenue Code of 1986 and the rules and regulations promulgated thereunder.

“Commitment” means a Term Commitment or a Revolving Commitment, as the context may require.

“Compliance Certificate” means a certificate substantially in the form of Exhibit C, executed by a Responsible Officer to the effect that: (a) as of the effective date of such certificate, no Default or Event of Default exists or would exist after giving effect to the action

intended to be taken by the Borrower as described in such certificate, including, without limitation, that the covenants set forth in Section 6.09 would not be breached after giving effect to such action, together with a calculation in reasonable detail, and in form and substance satisfactory to the Administrative Agent, of such compliance and (b) the representations and warranties contained in Article V are true and with the same effect as though such representations and warranties were made on the date of such certificate, except for changes in the ordinary course of business none of which, either singly or in the aggregate, has had a Material Adverse Effect.

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

“Consolidated” means, when used with reference to financial statements or financial statement items of the Borrower and its Subsidiaries or any other Person, such statements or items on a consolidated basis in accordance with the consolidation principles of GAAP.

“Consolidated Total Assets” means, on any date, the Consolidated total assets of the Borrower and its Subsidiaries, as such amount would appear on a Consolidated balance sheet of the Borrower prepared as of such date in accordance with GAAP.

“Construction Investments” means financing extended by the Borrower or any of its Subsidiaries with respect to a Health Care Facility that is under construction i.e., has not received a certificate of occupancy.

“Continuing Directors” means, during any twenty-four (24) month period, individuals who, as of the beginning of such period, constitute the Board of Directors of the Borrower. For this purpose, any person who is nominated for election as a member of such Board of Directors after May 3, 2012 shall also be considered a “Continuing Director” if, and only if, his or her nomination for election to such Board of Directors is approved or recommended by a majority of the members of such Board of Directors (or of the relevant nominating committee) and at least five (5) members of such Board of Directors are themselves Continuing Directors at the time of such nomination.

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

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower, are treated as a single employer under Section 414(b), 414(c) or 414(m) of the Code and Section 4001(a)(2) of ERISA.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) with respect to any Obligation for which a rate is specified, a rate per annum equal to two percent (2%) plus the rate (including any Applicable Rate and any Mandatory Cost) otherwise applicable thereto and (b) with respect to any Obligation for which a rate is not specified or available, a rate per annum equal to the Base Rate plus the Applicable Rate for Revolving Loans that are Base Rate Loans plus two percent (2%), in each case, to the fullest extent permitted by applicable Law.

“Defaulting Lender” means, subject to Section 2.15(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the L/C Issuer, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, the L/C Issuer or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or

more of clauses (a) through (d) above, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.15(b)) upon delivery of written notice of such determination to the Borrower, the L/C Issuer, the Swingline Lender and each other Lender.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory is the subject of any Sanction.

“Disposition” means the sale, lease, conveyance, transfer or other disposition of any Health Care Facility (whether in one or a series of transactions), including accounts and notes receivable (with or without recourse) and sale-leaseback transactions.

“Dollar” and “\$” mean lawful money of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“EBITDA” means, for any period, with respect to the Borrower on a Consolidated basis, determined in accordance with GAAP, the sum of net income (or net loss) for such period plus the sum of all amounts treated as expenses for: (a) interest, (b) depreciation, (c) amortization, including, but not limited to, amortization of loan expenses and stock-based compensation, (d) all accrued taxes on or measured by income to the extent included in the determination of such net income (or net loss), (e) provision for loan losses and (f) losses on extinguishment of debt, minus gains on extinguishment of debt, provided, however, that net income (or net loss) shall be computed without giving effect to extraordinary losses or gains.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.06 (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

“Employee Benefit Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA which is subject to ERISA and (a) is maintained for employees of the Borrower or (b) with respect to which the Borrower has any liability.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“Environmental Laws” means any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any of its Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Proceeding” means any judgment, action, proceeding or investigation pending before any court or Governmental Authority, with respect to the Borrower or any Subsidiary and arising under or relating to any Environmental Laws and Regulations.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests) and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.

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

“Euro” and “EUR” mean the lawful currency of the Participating Member States introduced in accordance with the EMU Legislation.

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum equal to (i) the British Bankers Association LIBOR Rate (or any successor thereto approved by the Administrative Agent if the British Bankers Association is no longer making a LIBOR rate available) (“BBA LIBOR”), as published by Reuters (or such other commercially available source providing quotations of BBA LIBOR as may be designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two (2) London Banking Days prior to the commencement of such Interest Period, for deposits of the applicable Approved Currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period or (ii) if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in the applicable Approved Currency for delivery on the first day of such Interest Period in same

day funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by the principal office of a leading bank in the London interbank market, as selected by the Administrative Agent, to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two (2) London Banking Days prior to the commencement of such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to (i) BBA LIBOR, at approximately 11:00 a.m., London time determined two (2) London Banking Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one (1) month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made or maintained and with a term equal to one (1) month would be offered by the principal office of a leading bank in the London interbank market, as selected by the Administrative Agent, to major banks in the London interbank eurodollar market at their request at the date and time of determination.

“Eurodollar Rate Loan” means a Revolving Loan or a Term Loan that bears interest at a rate based on clause (a) of the definition of “Eurodollar Rate.”

“Event of Default” has the meaning specified in Section 8.01.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes; (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in such Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii) or (c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office; (c) Taxes attributable to such Recipient’s failure to comply with Section 3.01(e); and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

“Existing Loan Agreement” means that certain Fifth Amended and Restated Loan Agreement, dated as of July 27, 2011, by and among the Borrower, the Lenders from time to time party thereto and KeyBank National Association, as Administrative Agent, as amended, modified, supplemented and/or restated from time to time.

“Existing Letter[s] of Credit” means those certain letters of credit set forth on Schedule 1.01(c).

“Facility” means the Term Facility or the Revolving Facility (including therein the U.S. Tranche Revolving Commitments and the Alternative Currency Tranche Revolving Commitments), as the context may require.

“Facility Fee” has the meaning assigned to such term in Section 2.09(a).

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) the Aggregate Commitments have terminated; (b) all Obligations have been paid in full (other than contingent indemnification obligations); and (c) all Letters of Credit have terminated or expired (other than Letters of Credit as to which other arrangements with respect thereto satisfactory to the Administrative Agent and the L/C Issuer shall have been made).

“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to KeyBank, National Association on such day on such transactions as determined by the Administrative Agent.

“Financial Statements” means, with respect to the Borrower, its audited Consolidated Balance Sheet as at December 31, 2011, together with the related audited Consolidated Income Statement and Statement of Changes in Cash Flow for the fiscal year then ended.

“Fitch” means Fitch Ratings Ltd.

“Fixed Charge Coverage” means, as at the last day of any fiscal quarter, the quotient, expressed as a percentage (which may be in excess of 100%), determined by dividing EBITDA by Fixed Charges; all of the foregoing calculated by reference to the immediately preceding four (4) fiscal quarters of the Borrower ending on such date of determination.

“Fixed Charges” means, for any period, with respect to the Borrower on a Consolidated basis, the sum of, without duplication, (a) Interest Expense, plus (b) scheduled principal

payments on Funded Indebtedness (excluding any balloon or final payment other than the final payment with respect to a loan that is fully amortized over its term) which are required to be made during such period, plus (c) dividends and distributions in respect of preferred stock (but excluding redemption payments or charges in connection with the redemption of preferred stock) declared (either prior to or during such period) and required to be paid during such period, in each case determined in accordance with GAAP.

“Foreign Lender” means a Lender that is not a U.S. Person. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Fronting Exposure” means, at any time there is a Defaulting Lender that is a Revolving Lender, (a) with respect to the L/C Issuer, such Defaulting Lender’s Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders or Cash Collateralized in accordance with the terms hereof and (b) with respect to the Swingline Lender, such Defaulting Lender’s Applicable Percentage of Swingline Loans other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Revolving Lenders in accordance with the terms hereof.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funded Indebtedness” means, as of any date of determination thereof, all Indebtedness of any Person, determined in accordance with GAAP.

“Funding Indemnity Letter” means a funding indemnity letter, substantially in the form of Exhibit I.

“GAAP” means generally accepted accounting principles in the United States of America applied on a consistent basis and subject to the terms of Section 1.03.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness of the kind described in clauses (a) through (e) of the definition thereof or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of

such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness of the kind described in clauses (a) through (e) of the definition thereof or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed or expressly undertaken by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Health Care Facility” means (a) a health care facility offering health care-related products and services, including but not limited to any acute care hospital, rehabilitation hospital, nursing facility, assisted living facility, retirement center, long-term care facility, outpatient diagnostic facility or medical office building, life science research and development facility or office and any related or ancillary facility, service or product and (b) housing intended to be occupied primarily by persons over the age of 55 and related or ancillary facilities, services and products.

“Honor Date” has the meaning set forth in Section 2.03(c).

“Incremental Revolving Lender” has the meaning assigned to such term in Section 2.16(b).

“Incremental Term Commitment” has the meaning assigned to such term in Section 2.17(a).

“Incremental Term Lender” has the meaning assigned to such term in Section 2.17(b).

“Incremental Term Loan Request” has the meaning assigned to such term in Section 2.17(a).

“Indebtedness” means, with respect to any Person, all: (a) liabilities or obligations, direct and contingent, which in accordance with GAAP would be included in determining total liabilities as shown on the liability side of a balance sheet of such Person at the date as of which Indebtedness is to be determined, including, without limitation, contingent liabilities that in accordance with such principles, would be set forth in a specific Dollar amount on the liability

side of such balance sheet, and Capitalized Lease Obligations of such Person; (b) liabilities or obligations of others for which such Person is directly or indirectly liable, by way of guaranty (whether by direct guaranty, suretyship, discount, endorsement, take-or-pay agreement, agreement to purchase or advance or keep in funds or other agreement having the effect of a guaranty) or otherwise; (c) liabilities or obligations secured by Liens on any assets of such Person, whether or not such liabilities or obligations shall have been assumed by it; (d) liabilities or obligations of such Person, direct or contingent, with respect to letters of credit issued for the account or upon the application of such Person and bankers acceptances created for such Person; (e) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect to any Equity Interest in such Person at any time and (f) monetary obligations of such Person under a so-called synthetic lease, off-balance sheet or tax retention lease or under an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Indemnitees” has the meaning specified in Section 10.04(b).

“Information” has the meaning specified in Section 10.07.

“Interest Expense” means, for any period, on a Consolidated basis, the sum of all interest paid or payable (excluding unamortized debt issuance costs) on all items of Indebtedness of the Borrower outstanding at any time during such period.

“Interest Payment Date” means, (a) as to any Eurodollar Rate Loan and any Bid Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurodollar Rate Loan exceeds three (3) months, the respective dates that fall every three (3) months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan or Swingline Loan, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made (with Swingline Loans being deemed made under the Revolving Facility for purposes of this definition).

“Interest Period” means, as to (i) each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date one (1), two (2), three (3) or six (6) months thereafter, as selected by the Borrower in its Loan Notice; and (ii) each Bid Loan, the period commencing on the date of such Bid Loan and ending on the date specified in the Bid Loan Quote Request in which the Bid Loan Quote to make such Bid Loan was extended ; provided that:

(a) with respect to a Eurodollar Rate Loan, any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) with respect to a Eurodollar Rate Loan, 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 the calendar month at the end of such Interest Period;

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made;

(d) notwithstanding clause (c) above, no Interest Period with respect to a Eurodollar Rate Loan shall have a duration of less than one month; and

(e) no Interest Period with respect to a Bid Loan shall have a duration of more than 180 days.

In the event that the Borrower fails to select the duration of any Interest Period for any Eurodollar Rate Loan denominated in Dollars within the time period and otherwise as provided in Section 2.02, such Eurodollar Rate Loan will be automatically converted into a Base Rate Loan on the last day of the preceding Interest Period for such Eurodollar Rate Loan.

“Investment(s)” means, by any Person:

(a) the amount paid or committed to be paid, or the value of property or services contributed or committed to be contributed, by such Person for or in connection with the acquisition by such Person of any stock, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person; and

(b) the amount of any advance, loan or extension of credit by such Person, to any other Person, or guaranty or other similar obligation of such Person with respect to any Indebtedness of such other Person, and (without duplication) any amount committed to be advanced, loaned, or extended by such Person to any other Person, or any amount the payment of which is committed to be assured by a guaranty or similar obligation by such Person for the benefit of, such other Person.

For the purposes of clarity, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IRS” means the United States Internal Revenue Service.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer

and the Borrower (or any Subsidiary) or in favor of the L/C Issuer and relating to such Letter of Credit.

“Judgment Currency” has the meaning assigned to such term in Section 10.19.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Revolving Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Revolving Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Borrowing.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means KeyBank, National Association, in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lender” means each of the Persons identified as a “Lender” on the signature pages hereto, each other Person that becomes a “Lender” in accordance with this Agreement and, their successors and assigns and, unless the context requires otherwise, includes the Swingline Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Letter of Credit” means any letter of credit issued hereunder and shall include the Existing Letter[s] of Credit. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; provided, however, that any commercial letter of credit issued hereunder shall provide solely for cash payment upon presentation of a sight draft and any other required documents.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is five (5) days prior to the Maturity Date then in effect for the Revolving Facility (or, if such day is not a Business Day, the next preceding Business Day); provided that the Letter of Credit Expiration Date may, subject to the Borrower providing Cash Collateral as provided in Section 2.14, be extended for up to one year after the Maturity Date then in effect for the Revolving Facility.

“Letter of Credit Fee” has the meaning specified in Section 2.03(h).

“Letter of Credit Sublimit” means an amount equal to the lesser of (a) \$150,000,000 and (b) the Revolving Facility. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Facility.

“Leverage Ratio” has the meaning assigned to such term in Section 6.09(a).

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Term Loan, a Revolving Loan, a Bid Loan or a Swingline Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) each separate fee letter, (d) each Issuer Document and (e) any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of this Agreement including Section 2.14.

“Loan Notice” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit D-1.

“London Banking Day” means any day on which dealings in deposits of the applicable Approved Currency are conducted by and between banks in the London interbank eurodollar market.

“Mandatory Cost” means, with respect to any period, the percentage rate per annum determined in accordance with Schedule 1.01(d).

“Material Adverse Effect” means any fact or circumstance which (a) materially and adversely affects the business, operation, property or financial condition of the Borrower and the Subsidiaries taken as a whole or (b) has a material adverse effect on the ability of the Borrower and the Subsidiaries taken as a whole to perform its obligations under this Agreement, the Notes or the other Loan Documents.

“Maturity Date” means (a) with respect to the Revolving Facility, March 31, 2017 and (b) with respect to the Term Facility, March 31, 2016, or, in each case, any later date established in accordance with Section 2.18 or 2.19; provided, however, that, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Merger with No Actual Change in Control” means (i) the stockholders of the Borrower, immediately before such merger or consolidation, own, directly or indirectly, immediately following such merger or consolidation, more than fifty percent (50%) of the then outstanding shares of common stock (or the equivalent in voting power of any class or classes of securities of the corporation entitled to vote in elections of directors) of the corporation resulting from such merger or consolidation (the “Surviving Company”) in substantially the same proportion as their ownership of the Borrower’s outstanding common stock (or the equivalent in voting power of any class or classes of securities of the Borrower entitled to vote in elections of directors) immediately before such merger or consolidation and (ii) the persons who were Continuing Directors immediately prior to the execution of the agreement providing for such merger or consolidation constitute more than fifty percent (50%) of the members of the Board of Directors of the Surviving Company.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during any period when a Lender constitutes a Defaulting Lender, an amount equal to 100% of the Fronting Exposure of the L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.14(a)(i), (a)(ii), (a)(iii) or (a)(iv), an amount equal to 100% of the Outstanding Amount of all L/C Obligations and (c) otherwise, an amount determined by the Administrative Agent and the L/C Issuer in their sole discretion.

“Moody’s” means Moody’s Investors Service, Inc.

“Mortgage(s)” means mortgages of primarily real property constituting a Health Care Facility or real estate for which the Borrower or one of its Subsidiaries is a mortgagee.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions or, during the preceding five (5) plan years, has made or been obligated to make contributions.

“New Revolving Lender” has the meaning assigned to such term in Section 2.16(a).

“New Term Lender” has the meaning assigned to such term in Section 2.17(a).

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (b) has been approved by the Required Lenders.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Nonrecourse Indebtedness” means, with respect to the Borrower or any Subsidiary, Indebtedness of the Borrower or such Subsidiary that is secured by a Lien on Property of the Borrower or such Subsidiary, as applicable, the sole recourse for the repayment of which is such Property and where the Borrower or such Subsidiary, as applicable, would not be liable for any deficiency after the application of the proceeds of such Property to such Indebtedness, other than in respect of environmental liabilities, fraud, misrepresentation and other similar matters.

“Note” means a Term Note, a Revolving Note, a Bid Loan Note or a Swingline Note, as the context may require.

“Obligations” means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any of its Affiliates of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

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

“Operator” means (a) the lessee of any Health Care Facility owned or leased by the Borrower and (b) the mortgagor of a Health Care Facility which is subject to a Mortgage to the extent that such entity controls the operation of such Facility.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all other entities, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Outstanding Amount” means (i) with respect to Term Loans, Revolving Loans, Bid Loans and Swingline Loans on any date, the Dollar Equivalent of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans, Revolving Loans, Bid Loans and Swingline Loans, as the case may be, occurring on such date and (ii) with respect to any L/C Obligations on any date, the Dollar Equivalent of the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Participant” has the meaning specified in Section 10.06(d).

“Participant Register” has the meaning specified in Section 10.06(d).

“Participating Member State” means each state so described in any EMU Legislation.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Permitted Liens” means (a) Liens pursuant to any Loan Document; (b) Liens securing Indebtedness permitted under Section 7.01 (other than unsecured Indebtedness); (c) Liens for Taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person; (d) carriers’ , warehousemen’ s, mechanics’ , materialmen’ s, repairmen’ s or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto, to the extent required by GAAP, are maintained on the books of the applicable Person; (e) pledges or deposits or other Liens arising in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other social security legislation, or to secure statutory obligations, other than any Lien imposed by ERISA; (f) Liens and rights of setoff of banks and securities intermediaries in respect of deposit accounts and securities accounts maintained in the ordinary course of business; (g) the interests of lessees and lessors under leases or subleases of, and the interest of managers or operators with respect to, real or personal property made in the ordinary course of business; (h) Liens on property where the Borrower or its Subsidiaries is insured against such Liens by title insurance; (i) Liens on property acquired by the Borrower or any of its Subsidiaries after the date hereof and which are in place at the time such properties are so acquired and not created in contemplation of such acquisition; (j) Liens securing assessments or charges payable to a property owner association or similar entity, which assessments are not yet due and payable or are being contested in good faith by appropriate proceedings diligently conducted, and for which adequate reserves with respect thereto, to the

extent required by GAAP, are maintained on the books of the applicable Person; (k) Liens securing assessment bonds, so long as the Borrower or its Subsidiaries are not in default under the terms thereof; (l) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business; (m) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person; (n) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(g) or securing appeal or other surety bonds related to such judgments; (o) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement; (p) assignments to a reverse Section 1031 exchange trust; (q) licenses of intellectual property granted in the ordinary course of business and (r) Liens on assets of the Borrower or any of its Subsidiaries securing obligations under Swap Contracts.

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

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any ERISA Affiliate or any such Plan to which the Borrower or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 6.01.

“Property” means any estate or interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

“Proposed Revolving Lender” has the meaning assigned to such term in Section 2.16(a).

“Proposed Term Lender” has the meaning assigned to such term in Section 2.17(a).

“Public Lender” has the meaning specified in Section 6.01.

“Ratings” means the ratings from time to time established by the Ratings Agencies for long term, senior, unsecured, non-credit enhanced debt of the Borrower.

“Ratings Agencies” means Moody’ s, S&P and Fitch.

“Recipient” means the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any Obligation.

“Recourse Indebtedness” means, with respect to the Borrower or any Subsidiary, all Indebtedness of the Borrower or such Subsidiary other than Nonrecourse Indebtedness.

“Register” has the meaning specified in Section 10.06(c).

“REIT” means a real estate investment trust as defined in Sections 856-860 of the Code.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the thirty (30) day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Loans, a Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, (c) with respect to a Swingline Loan, a Swingline Loan Notice and (d) with respect to a Bid Loan, a Bid Loan Quote Request.

“Required Alternative Currency Tranche Revolving Lenders” means, at any time, Alternative Currency Tranche Revolving Lenders having Total Alternative Currency Credit Exposures representing more than 50% of the Total Alternative Currency Credit Exposures of all Alternative Currency Tranche Revolving Lenders. The Total Alternative Currency Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Alternative Currency Tranche Revolving Lenders at any time; provided that, the amount of any participation in any Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the L/C Issuer in making such determination.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swingline Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or L/C Issuer, as the case may be, in making such determination. For purposes of this definition, the Outstanding Amount of all Bid Loans shall be disregarded in in determining Total Credit Exposures.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of the Borrower, and solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of the Borrower. Any document delivered hereunder that is signed by a Responsible Officer shall be conclusively presumed to have been authorized by all necessary corporate and/or other action on the part of the Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower. To the extent requested by the Administrative Agent, each Responsible Officer will provide an incumbency certificate, in form and substance satisfactory to the Administrative Agent.

“Revaluation Date” means, with respect to (a) any Letter of Credit, each of the following: (i) each date of issuance of an Alternative Currency Tranche Letter of Credit, (ii) each date of an amendment of any Alternative Currency Tranche Letter of Credit having the effect of increasing

the amount thereof, (iii) each date of any payment by the L/C Issuer under any Alternative Currency Tranche Letter of Credit, (iv) in the case of the Existing Letters of Credit, the Closing Date and (v) such additional dates (not more frequently than monthly) as the Administrative Agent or the L/C Issuer shall determine or the Required Lenders shall require and (b) any Revolving Loan, each of the following: (i) each date of Borrowing of an Alternative Currency Tranche Revolving Loan, (ii) each date of any continuation of a Eurodollar Rate Loan denominated in an Alternative Currency pursuant to Section 2.02 and (iii) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require.

“Revolving Borrowing” means a borrowing consisting of simultaneous Revolving Loans of the same Type, in the same currency and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Revolving Lenders pursuant to Section 2.01(b).

“Revolving Commitment” means, with respect to any Revolving Lender, the sum of such Lender’ s U.S. Tranche Revolving Commitment and such Lender’ s Alternative Currency Tranche Revolving Commitment. The Revolving Commitment of all of the Revolving Lenders on the Closing Date shall be \$2,250,000,000.

“Revolving Exposure” means, as to any Lender at any time, the sum of such Lender’ s U.S. Tranche Revolving Exposure and such Lender’ s Alternative Currency Tranche Revolving Exposure.

“Revolving Facility” means, at any time, the aggregate amount of the Revolving Lenders’ Revolving Commitments at such time.

“Revolving Facility Increase” has the meaning assigned to such term in Section 2.16(a).

“Revolving Increase Request” has the meaning assigned to such term in Section 2.16(a).

“Revolving Lender” means a U.S. Tranche Revolving Lender or an Alternative Currency Tranche Revolving Lender.

“Revolving Loan” means a U.S. Tranche Revolving Loan or an Alternative Currency Tranche Revolving Loan.

“Revolving Note” means a promissory note made by the Borrower in favor of a Revolving Lender evidencing Revolving Loans, made by such Revolving Lender, substantially in the form of Exhibit F-1.

“S&P” means Standard & Poor’ s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the applicable L/C Issuer, as applicable, to be customary in the place of disbursement or payment for the settlement of international banking transactions in such Alternative Currency.

“Sanction(s)” means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’ s Treasury or other relevant sanctions authority.

“SEC” means the Securities and Exchange Commission.

“Significant Acquisition” means an acquisition permitted under Section 7.04 or 7.08, provided that the aggregate consideration (whether in the form of cash, securities, goodwill, or otherwise) with respect to such acquisition is not less than \$750,000,000.

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’ s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’ s property would constitute an unreasonably small capital and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Spot Rate” for a currency means the rate determined by the Administrative Agent or the L/C Issuer, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. (London time) on the date two (2) Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or the L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or the L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that the L/C Issuer may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in an Alternative Currency.

“Sterling” and “£” mean the lawful currency of the United Kingdom.

“Subsidiary” means, with respect to any Person, any corporation, partnership, joint venture or other entity, whether now existing or hereafter organized or acquired: (a) in the case of a corporation, of which a majority of the securities having ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) are at the time owned by such Person and/or one or more Subsidiaries of such Person, (b) in the case of a partnership or other entity, in which such Person is a general partner or of which a majority of the partnership or other equity interests are at the time owned by such Person and/or one or more of its Subsidiaries, or (c) in the case of a joint venture, in which such Person is a joint venturer and of which a majority of the ownership interests are at the time

owned by such Person and/or one or more of its Subsidiaries. Unless the context otherwise requires, references in this Agreement to “Subsidiary” or “Subsidiaries” shall be deemed to be references to a Subsidiary or Subsidiaries of the Borrower.

“Surviving Company” has the meaning assigned to such term in the definition of “Merger with No Actual Change in Control” contained in this Section 1.01

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swingline Borrowing” means a borrowing of a Swingline Loan pursuant to Section 2.04.

“Swingline Lender” means KeyBank National Association in its capacity as provider of Swingline Loans, or any successor swingline lender hereunder.

“Swingline Loan” has the meaning specified in Section 2.04(a).

“Swingline Loan Notice” means a notice of a Swingline Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit D-2.

“Swingline Note” means a promissory note made by the Borrower in favor of a Swingline Lender evidencing Swingline Loans, made by such Swingline Lender, substantially in the form of Exhibit F-3.

“Swingline Sublimit” means an amount equal to the lesser of (a) \$100,000,000 and (b) the Revolving Facility. The Swingline Sublimit is part of, and not in addition to, the Revolving Facility.

“Swiss Francs” means the lawful currency of Switzerland.

“Tangible Net Worth” means the sum of capital surplus, earned surplus and capital stock, minus deferred charges, intangibles and treasury stock, all as determined in accordance with GAAP consistently applied.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“TARGET Day” means any day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system (or, if such payment system ceases to be operative, such other payment system (if any) determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

“Term Borrowing” means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the Term Lenders pursuant to Section 2.01(a).

“Term Commitment” means, as to each Term Lender, its obligation to make Term Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender’s name on Schedule 1.01(b) under the caption “Term Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The Term Commitment of all of the Term Lenders on the Closing Date shall be \$500,000,000.

“Term Facility” means, (a) at any time during the Availability Period in respect of such Facility, the sum of (i) the aggregate amount of the Term Commitments at such time and (ii) the aggregate principal amount of the Term Loans of all Term Lenders outstanding at such time and (b) thereafter, the aggregate principal amount of the Term Loans of all Term Lenders outstanding at such time.

“Term Lender” means (a) at any time during the Availability Period in respect of the Term Facility, any Lender that has a Term Commitment and (b) at any time after the Availability Period in respect of the Term Facility, any Lender that holds Term Loans at such time.

“Term Loan” has the meaning specified in Section 2.01(a).

“Term Note” means a promissory note made by the Borrower in favor of a Term Lender, evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit F-4.

“Threshold Amount” means (a) with respect to Nonrecourse Indebtedness, \$200,000,000, and (b) with respect to Recourse Indebtedness, \$100,000,000.

“Total Alternative Currency Credit Exposure” means, as to any Lender at any time, the unused Alternative Currency Tranche Revolving Commitment and the Alternative Currency Tranche Revolving Exposure of such Lender at such time.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments, Revolving Exposure and Outstanding Amount of all Term Loans of such Lender at such time.

“Total Revolving Outstandings” means the aggregate Outstanding Amount of all Revolving Loans, Swingline Loans, Bid Loans and L/C Obligations.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“UCC” means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance of such Letter of Credit).

“Unencumbered Assets” means, on any date, net real estate investments (valued on a book basis) of the Borrower that are not subject to any Lien which secures indebtedness for borrowed money of the Borrower plus, without duplication, loan loss reserves relating thereto, accumulated depreciation thereon plus Cash, as all such amounts would appear on a Consolidated balance sheet of the Borrower prepared as of such date in accordance with GAAP.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

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

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(3).

“U.S. Tranche L/C Exposure” means, at any time, (i) the aggregate undrawn amount of all outstanding U.S. Tranche Letters of Credit at such time and (ii) the aggregate amount of all L/C Disbursements in respect of U.S. Tranche Letters of Credit that have not yet been reimbursed by or on behalf of the Borrower at such time. The U.S. Tranche L/C Exposure of any Revolving Lender at any time shall be its Applicable U.S. Tranche Percentage of the total U.S. Tranche L/C Exposure at such time.

“U.S. Tranche Letter of Credit” means a Letter of Credit denominated in Dollars.

“U.S. Tranche Revolving Borrowing” means a borrowing consisting of simultaneous U.S. Tranche Revolving Loans of the same Type, and, in the case of Eurodollar Rate Loans, having the same Interest Period made by each of the U.S. Tranche Revolving Lenders pursuant to Section 2.01(b)(i).

“U.S. Tranche Revolving Commitment” means, as to each U.S. Tranche Revolving Lender, its obligation to (a) make U.S. Tranche Revolving Loans to the Borrower pursuant to Section 2.01(b)(i), (b) purchase participations in L/C Obligations in respect of U.S. Tranche Letters of Credit and (c) purchase participations in Swingline Loans, in an aggregate principal amount at any one time outstanding which does not exceed the Dollar amount set forth opposite such Lender’s name on Schedule 1.01(b) under the caption “U.S. Tranche Revolving Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The U.S. Tranche Revolving Commitments of all of the U.S. Tranche Revolving Lenders on the Closing Date shall be \$1,750,000,000.

“U.S. Tranche Revolving Exposure” means, as to any U.S. Tranche Revolving Lender at any time, (i) the Outstanding Amount at such time of such Lender’s U.S. Tranche Revolving Loans, plus (ii) the Outstanding Amount at such time of such Lender’s Bid Loans, plus (iii) the Outstanding Amount of such Lender’s participation in L/C Obligations with respect to U.S. Tranche Letters of Credit plus (iv) the Outstanding Amount of such Lender’s participation in Swingline Loans, in each case, at such time.

“U.S. Tranche Revolving Lender” means, at any time, (a) so long as any U.S. Tranche Revolving Commitment is in effect, any Lender that has a U.S. Tranche Revolving Commitment at such time or (b) if the U.S. Tranche Revolving Commitments have terminated or expired, any Lender that has a U.S. Tranche Revolving Loan, a Bid Loan or a participation in L/C Obligations with respect to U.S. Tranche Letters of Credit or Swingline Loans at such time.

“U.S. Tranche Revolving Loan” has the meaning specified in Section 2.01(b)(i).

“Yen” and “¥” mean the lawful currency of Japan.

Section 1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” 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, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time and (vi) 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.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation

between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 1.04 Rounding.

Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.06 Exchange Rates; Currency Equivalents.

(a) The Administrative Agent or the L/C Issuer, as applicable, shall determine the Spot Rates as of each Revaluation Date to be used for calculating the Dollar Equivalent of L/C Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered hereunder or calculating covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Credit Documents shall be such Dollar Equivalent as so determined by the Administrative Agent or the L/C Issuer, as applicable.

(b) Wherever in this Agreement in connection with a Revolving Borrowing, conversion, continuation or prepayment of a Eurodollar Rate Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Revolving Borrowing, Eurodollar Rate Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the L/C Issuer, as the case may be.

Section 1.07 Additional Alternative Currencies.

(a) The Borrower may from time to time request that Alternative Currency Tranche Revolving Loans be made and/or Alternative Currency Tranche Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative Currency;" provided that such requested currency is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars. In the case of any such request with respect to the making of Alternative Currency Tranche Revolving Loans, such request shall be subject to the approval of the Administrative Agent and the Required Alternative Currency Tranche Revolving Lenders; and in the case of any such request with respect to the

issuance of Alternative Currency Tranche Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the L/C Issuer.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., twenty (20) Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent and, in the case of any such request pertaining to Alternative Currency Tranche Letters of Credit, the L/C Issuer, in its or their sole discretion). In the case of any such request pertaining to Alternative Currency Tranche Revolving Loans, the Administrative Agent shall promptly notify each Alternative Currency Tranche Revolving Lender thereof; and in the case of any such request pertaining to Alternative Currency Tranche Letters of Credit, the Administrative Agent shall promptly notify the L/C Issuer thereof. Each Alternative Currency Tranche Revolving Lender (in the case of any such request pertaining to Alternative Currency Tranche Revolving Loans) or the L/C Issuer (in the case of a request pertaining to Alternative Currency Tranche Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Alternative Currency Tranche Revolving Loans or the issuance of Letters of Credit, as the case may be, in such requested currency and whether it is able to fund in such requested currency.

(c) Any failure by an Alternative Currency Tranche Revolving Lender or the L/C Issuer, as the case may be, to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender or the L/C Issuer, as the case may be, to permit Alternative Currency Tranche Revolving Loans to be made or Alternative Currency Tranche Letters of Credit to be issued in such requested currency. If the Administrative Agent and the Required Alternative Currency Tranche Revolving Lenders consent to making Alternative Currency Tranche Revolving Loans in such requested currency, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Borrowings of Alternative Currency Tranche Eurodollar Rate Loans; and if the Administrative Agent and the L/C Issuer consent to the issuance of Alternative Currency Tranche Letters of Credit in such requested currency, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Alternative Currency Tranche Letter of Credit issuances. In the event that an Alternative Currency Tranche Revolving Lender shall have notified the Administrative Agent, as provided in Section 1.07(b), that it is not able to fund in the requested currency, such Alternative Currency Tranche Revolving Lender shall have no obligation to make Loans in such requested currency. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.06, the Administrative Agent shall promptly so notify the Borrower. Any specified currency of an Existing Letter of Credit that is neither Dollars nor one of the Alternative Currencies specifically listed in the definition of "Alternative Currency" shall be deemed an Alternative Currency with respect to such Existing Letter of Credit only.

Section 1.08 Change of Currency.

(a) Each obligation of the Borrower to make a payment denominated in the national currency unit of any Participating Member State of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of

such adoption (in accordance with the EMU Legislation). If, in relation to the currency of any such Participating Member State, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such Participating Member State adopts the Euro as its lawful currency; provided that if any Borrowing in the currency of such Participating Member State is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

Section 1.09 Letter of Credit Amounts.

Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

ARTICLE II

COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01 Loans.

(a) Term Borrowing. Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a single loan to the Borrower (each such loan and each loan, if any, made under the Incremental Term Commitments, referred to individually as a "Term Loan" and, collectively, the "Term Loans"), in Dollars, on any Business Day during the Availability Period for the Term Facility, in an aggregate amount equal to such Term Lender's Term Commitment. In addition, in the event of the establishment of one or more Incremental Term Commitments as provided in Section 2.17, each Incremental Term Lender hereby severally agrees, on the terms and subject to the conditions of this Agreement, to make a single Term Loan to the Borrower on the effective date of the establishment of each such Incremental Term Commitment, in a principal amount equal to such Incremental Term Lender's (i) increase to its Term Commitment or (ii) Term Commitment, as applicable. Each Term Borrowing shall consist

of Term Loans made simultaneously by the Term Lenders. After giving effect to each Term Loan the Outstanding Amount of all Term Loans shall not exceed the Term Facility as then in effect. Term Borrowings prepaid or repaid, in whole or in part, may not be reborrowed. Term Loans may be Base Rate Loans or Eurodollar Rate Loans, as further provided herein; provided, however, any Term Borrowing made on the Closing Date or any of the three (3) Business Days following the Closing Date shall be made as Base Rate Loans unless the Borrower delivers a Funding Indemnity Letter not less than three (3) Business Days prior to the date of such Term Borrowing.

(b) Revolving Borrowings.

(i) U.S. Tranche Revolving Loans. Subject to the terms and conditions set forth herein, each U.S. Tranche Revolving Lender severally agrees to make loans (each such loan, a “U.S. Tranche Revolving Loan”) in Dollars from time to time on any Business Day during the Availability Period with respect to the U.S. Tranche Revolving Commitments, in an aggregate amount not to exceed at any time outstanding the amount of such Lender’s U.S. Tranche Revolving Commitment; provided, however, that after giving effect to any U.S. Tranche Revolving Borrowing, (i) the U.S. Tranche Revolving Exposure of any U.S. Tranche Revolving Lender shall not exceed such U.S. Tranche Revolving Lender’s U.S. Tranche Revolving Commitment, (ii) the aggregate U.S. Tranche Revolving Exposures shall not exceed the total U.S. Tranche Revolving Commitments and (iii) the Total Revolving Outstandings shall not exceed the Revolving Facility. Within the limits of each U.S. Tranche Revolving Lender’s U.S. Tranche Revolving Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow U.S. Tranche Revolving Loans, prepay under Section 2.05, and reborrow under this Section 2.01(b)(i). U.S. Tranche Revolving Loans may consist of Base Rate Loans or Eurodollar Rate Loans, or a combination thereof, as further provided herein. Notwithstanding the preceding sentence, any U.S. Tranche Revolving Borrowings made on the Closing Date or any of the three (3) Business Days following the Closing Date shall be made as Base Rate Loans unless the Borrower delivers a Funding Indemnity Letter not less than three (3) Business Days prior to the date of such U.S. Tranche Revolving Borrowing. U.S. Tranche Revolving Loans may be repaid and reborrowed in accordance with the provisions hereof.

(ii) Alternative Currency Tranche Revolving Loans. Subject to the terms and conditions set forth herein, each Alternative Currency Tranche Revolving Lender severally agrees to make loans (each such loan, an “Alternative Currency Tranche Revolving Loan”) in one or more Alternative Currencies from time to time on any Business Day during the Availability Period with respect to the Alternative Currency Tranche Revolving Commitments, in an aggregate amount not to exceed at any time outstanding the amount of such Alternative Currency Tranche Revolving Lender’s Alternative Currency Tranche Revolving Commitment; provided, however, that after giving effect to any Alternative Currency Tranche Revolving Borrowing, (i) the Alternative Currency Tranche Revolving Exposure of any Alternative Currency Tranche Revolving Lender shall not exceed such Alternative Currency Tranche Revolving Lender’s Alternative Currency Tranche Revolving Commitment, (ii) the aggregate Alternative Currency Tranche Revolving Exposures shall not exceed the total Alternative Currency Tranche Revolving Commitments and (iii) the Total Revolving Outstandings shall not exceed the Revolving Facility. Within the limits of each Alternative Currency Tranche Revolving Lender’s Alternative Currency Tranche Revolving Commitment, and subject to the

other terms and conditions hereof, the Borrower may borrow Alternative Currency Tranche Revolving Loans, prepay under Section 2.05, and reborrow under this Section 2.01(b)(ii). Alternative Currency Tranche Revolving Loans must consist of Eurodollar Rate Loans. Notwithstanding the preceding sentence, any Alternative Currency Tranche Revolving Borrowings made on the Closing Date or any of the three (3) Business Days following the Closing Date shall be subject to the receipt by Administrative Agent of a Funding Indemnity Letter from the Borrower not less than three (3) Business Days prior to the date of such Alternative Currency Tranche Revolving Borrowing. Alternative Currency Tranche Revolving Loans may be repaid and reborrowed in accordance with the provisions hereof.

(c) Bid Loans Borrowings.

(i) General Terms. At any time commencing on the Closing Date and prior to the Business Day immediately preceding the Maturity Date with respect to the Revolving Facility, the Borrower may request the Revolving Lenders to make offers to make bid loans to the Borrower (each a "Bid Loan"); provided that (i) the sum of all Bid Loans outstanding shall not exceed the Bid Loan Sublimit, (ii) the Total Revolving Outstandings shall not exceed the Revolving Facility, (iii) the aggregate amount of Bid Loans requested for any date and with the same Interest Period (each a "Bid Loan Borrowing") shall be at least \$2,000,000 and in integral multiples of \$1,000,000 in excess thereof; and (iv) all Interest Periods applicable to Bid Loans shall be subject to and shall comply with the definition of "Interest Period". The Revolving Lenders may, but shall have no obligation to, make such offers, and the Borrower may, but shall have no obligation to, accept any such offers in the manner set forth in this Section 2.01(c). In no event shall Bid Loans be made to the Borrower unless, at the time such Loans are made, two of the three ratings from S&P, Moody' s or Fitch are BBB-or better (Baa3 in the case of Moody' s).

(ii) Bid Loan Procedures.

(A) When the Borrower wishes to request offers to make Bid Loans, it shall provide telephonic or electronic notice to the Administrative Agent (which shall promptly notify the Revolving Lenders) followed promptly by written notice substantially in the form of Exhibit E-1 (each, a "Bid Loan Quote Request") duly completed and executed by a duly authorized executive officer of the Borrower, so as to be received no later than 10:00 a.m. on the second Business Day before the proposed funding date (or such other time and date as the Borrower and the Administrative Agent, with the consent of the Required Lenders, may agree). Subject to the definition of "Interest Period", the Borrower may request offers for up to three different Bid Loan Borrowings in a single Bid Loan Quote Request, in which case such Bid Loan Quote Request shall be deemed a separate Bid Loan Quote Request for each such borrowing. Except as otherwise provided in this Section 2.01(c), no Bid Loan Quote Request shall be given within five Business Days (or such other number of days as the Borrower and the Administrative Agent, with the consent of the Required Lenders, may agree) of any other Bid Loan Quote Request.

(B) Each Revolving Lender may, but shall not be obligated to, in response to any Bid Loan Quote Request submit one or more written quotes substantially in the form of Exhibit E-2 (each a "Bid Loan Quote"), duly completed, each containing an offer to

make a Bid Loan for the Interest Period requested and setting forth the Absolute Rate to be applicable to such Bid Loan; provided that (1) a Revolving Lender may make a single submission containing one or more Bid Loan Quotes in response to several Bid Loan Quote Requests given at the same time; and (2) the principal amount of the Bid Loan for which each such offer is being made shall be at least \$2,000,000 and multiples of \$1,000,000 in excess thereof; provided that the aggregate principal amount of all Bid Loans for which a Revolving Lender submits Bid Loan Quotes (x) may be greater or less than the Revolving Credit Commitment of such Revolving Lender but (y) may not exceed the principal amount of the Bid Loan Borrowing for which offers were requested. Each Bid Loan Quote by a Revolving Lender other than the Person serving as the Administrative Agent must be submitted to the Administrative Agent by fax not later than 8:00 a.m. on the funding date (or such other time and date as the Borrower and the Administrative Agent, with the consent of the Required Lenders, may agree); provided that any Bid Loan Quote may be submitted by the Person serving as the Administrative Agent, in its capacity as a Revolving Lender, only if the Person serving as the Administrative Agent notifies the Borrower of the terms of the offer contained therein not later than 7:45 a.m. on the funding date. Subject to Articles IV and VIII, any Bid Loan Quote so made shall be irrevocable except with the consent of the Administrative Agent given on the instructions of the Borrower. Unless otherwise agreed by the Administrative Agent and the Borrower, no Bid Loan Quote shall contain qualifying, conditional or similar language or propose terms other than or in addition to those set forth in the applicable Bid Loan Quote Request and, in particular, no Bid Loan Quote may be conditioned upon acceptance by the Borrower of all (or some specified minimum) of the principal amount of the Bid Loan for which such Bid Loan Quote is being made.

(C) The Administrative Agent shall, as promptly as practicable after any Bid Loan Quote is submitted (but in any event not later than 8:30 a.m. on the funding date, or 7:45 a.m. on the Funding Date with respect to any Bid Loan Quote submitted by the Person serving as the Administrative Agent, in its capacity as a Revolving Lender), notify the Borrower of the terms (1) of any Bid Loan Quote submitted by a Revolving Lender that is in accordance with Section 2.01(c)(ii)(B) and (2) of any Bid Loan Quote that amends, modifies or is otherwise inconsistent with a previous Bid Loan Quote submitted by such Revolving Lender with respect to the same Bid Loan Quote Request. Any subsequent Bid Loan Quote shall be disregarded by the Administrative Agent unless the subsequent Bid Loan Quote is submitted solely to correct a manifest error in a former Bid Loan Quote. The Administrative Agent's notice to the Borrower shall specify (x) the aggregate principal amount of the Bid Loan Borrowing for which Bid Loan Quotes have been received and (y) (I) the respective principal amounts and (II) the rates of interest (which shall be expressed as an absolute number and not in terms of a specified margin over the quoting Revolving Lender's cost of funds) (the "Absolute Rate") so offered by each Revolving Lender (identifying the Revolving Lender that made each such Bid Loan Quote).

(D) Not later than 9:00 a.m. on the funding date (or such other time and date as the Borrower and the Administrative Agent, with the consent of each Revolving Lender that has submitted a Bid Loan Quote may agree), the Borrower shall notify the Administrative Agent of its acceptance or nonacceptance of the Bid Loan Quotes so notified to it pursuant to Section 2.01(c)(ii)(C) (and the failure of the Borrower to give such notice by such time shall constitute nonacceptance), and the Administrative Agent shall promptly notify each

affected Revolving Lender. In the case of acceptance, such notice shall specify the aggregate principal amount of offers for each Interest Period that are accepted. The Borrower may accept any Bid Loan Quote in whole or in part; provided that (1) any Bid Loan Quote accepted in part shall be at least \$1,000,000 and multiples of \$1,000,000 in excess thereof; (2) the aggregate principal amount of each Bid Loan Borrowing may not exceed the applicable amount set forth in the related Bid Loan Quote Request; (3) the aggregate principal amount of each Bid Loan Borrowing shall be at least \$2,000,000 and multiples of \$1,000,000 in excess thereof and shall not cause the limits specified in Section 2.01(c) to be violated; (4) acceptance of offers may be made only in ascending order of Absolute Rates, beginning with the lowest rate so offered; and (5) the Borrower may not accept any offer where the Administrative Agent has advised the Borrower that such offer fails to comply with Section 2.01(c)(ii) or otherwise fails to comply with the requirements of this Agreement (including Section 2.01(a)). If offers are made by two or more Revolving Lenders with the same Absolute Rates for a greater aggregate principal amount than the amount in respect of which offers are permitted to be accepted for the related Interest Period, the principal amount of Bid Loans in respect of which such offers are accepted shall be allocated by the Borrower among such Revolving Lenders as nearly as possible (in amounts of at least \$1,000,000 and multiples of \$500,000 in excess thereof) in proportion to the aggregate principal amount of such offers. Determinations by the Borrower of the amounts of Bid Loans shall be conclusive in the absence of manifest error. Notwithstanding anything else contained herein, the Borrower shall have no obligation to accept any Bid Loan Quote by a Defaulting Lender.

(E) Subject to the terms set forth in this Agreement, any Revolving Lender whose offer to make any Bid Loan has been accepted shall, prior to 10:00 a.m. on the date specified for the making of such Loan, make the amount of such Loan available to the Administrative Agent in immediately available funds, for the account of the Borrower. The amount so received by the Administrative Agent shall, subject to the terms and conditions of this Agreement, be made available to the Borrower on or before 11:00 a.m. on such date by depositing the same, in immediately available funds, in an account of the Borrower designated by the Borrower and maintained with the Administrative Agent.

Section 2.02 Borrowings, Conversions and Continuations of Loans.

(a) Notice of Borrowing. Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice (i) with respect to amounts denominated Dollars, must be received by the Administrative Agent not later than 11:00 a.m. (x) with respect to Eurodollar Rate Loans, three (3) Business Days prior to and (y) with respect to Base Rate Loans, on the requested date of any Borrowing, conversion or continuation and (ii) with respect to Eurodollar Rate Loans denominated in an Alternative Currency, must be received by the Administrative Agent not later than 11:00 a.m. (London time), four (4) Business Days prior to the requested date of any Borrowing, conversion or continuation. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice, appropriately completed and signed by a Responsible Officer. Except as provided in Sections 2.03(c) and 2.04(d), each Borrowing, conversion or continuation of Revolving Loans shall be in a principal amount of (i) with respect to Revolving Loans that are or are to be

Eurodollar Rate Loans (A) denominated in Dollars, \$3,000,000 or a whole multiple of \$100,000 in excess thereof, (B) denominated in an Alternative Currency, an amount in such Alternative Currency having a Dollar Equivalent of approximately \$3,000,000 or such amount plus an amount in such Alternative Currency having a Dollar Equivalent of a whole multiple of approximately \$100,000 in excess thereof or (ii) with respect to Revolving Loans that are or are to be Base Rate Loans, \$1,000,000 or a whole multiple of \$100,000 in excess thereof. Each Borrowing and each conversion or continuation of Term Loans shall be in an amount equal to the principal amount of the Term Commitments. Each Loan Notice (whether telephonic or written) shall specify (A) the applicable Facility and whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Loans, as the case may be, under such Facility, (B) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (C) the principal amount of Loans to be borrowed, converted or continued, (D) the Type of Loans to be borrowed or continued, or to which existing Loans are to be converted, (E) if applicable, the duration of the Interest Period with respect thereto and (F) if such Loans are Alternative Currency Tranche Revolving Loans, the Alternative Currency of such Loans (which shall be an Approved Currency). If the Borrower fails to specify a Type of Loan in a Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation (other than with respect to Alternative Currency Tranche Revolving Loans), then the applicable Loans shall be made as, or converted to, Base Rate Loans. If the Borrower fails to specify a currency in a Loan Notice requesting a Revolving Borrowing, then the Revolving Loans so requested shall be made in Dollars. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurodollar Rate Loans in any such Loan Notice, but fails to specify an Interest Period, the Loan Notice will be deemed to have specified an Interest Period of one (1) month. No Alternative Currency Tranche Revolving Loan may be converted into or continued as an Alternative Currency Tranche Revolving Loan denominated in a different currency, but instead must be prepaid in the original currency of such Alternative Currency Tranche Revolving Loan and reborrowed in the other currency. Notwithstanding anything to the contrary herein, (x) a Swingline Loan may not be converted to a Eurodollar Rate Loan and (y) Bid Loans may not be continued or converted.

(b) Advances. Following receipt of a Loan Notice for a Facility, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage under such Facility of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Appropriate Lender of the details of any automatic conversion to Base Rate Loans or continuation of Revolving Loans denominated in an Alternative Currency, in each case as described in Section 2.02(a). In the case of a Borrowing denominated in Dollars, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Dollars in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. In the case of a Borrowing denominated in an Alternative Currency, each Alternative Currency Tranche Revolving Lender shall make the amount of its Loan available to the Administrative Agent in the applicable Alternative Currency in Same Day Funds at the Administrative Agent's Office not later than the Applicable Time specified by the Administrative Agent on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02

(and, if such Borrowing is an initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date a Loan Notice with respect to a Revolving Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Eurodollar Rate Loans. Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurodollar Rate Loans without the consent of the Required Lenders, and the Required Lenders may demand that any or all of the outstanding Eurodollar Rate Loans (other than Eurodollar Rate Loans denominated in an Alternative Currency) be converted immediately to Base Rate Loans. The Required Alternative Currency Tranche Revolving Lenders may demand that any or all of the then outstanding Eurodollar Rate Loans denominated in an Alternative Currency be prepaid, or redenominated into Dollars in the amount of the Dollar Equivalent thereof, on the last day of the then current Interest Period with respect thereto.

(d) Notice of Interest Rates. The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in KeyBank National Association's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) Interest Periods. After giving effect to all Term Borrowings, all conversions of Term Loans from one Type to the other, and all continuations of Term Loans as the same Type, there shall not be more than one Interest Period in effect in respect of the Term Facility. After giving effect to all Revolving Borrowings and Bid Loan Borrowings, all conversions of Revolving Loans from one Type to the other, and all continuations of Revolving Loans as the same Type, there shall not be more than ten Interest Periods in effect in respect of the Revolving Loans and Bid Loans.

Section 2.03 Letters of Credit.

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue U.S. Tranche Letters of Credit (denominated in Dollars) or Alternative Currency Tranche Letters of Credit (in one or more Alternative Currencies) for the account of the Borrower (which may be in support of obligations of the

Borrower or in support of obligations of a Subsidiary), and to amend Letters of Credit previously issued by it, in accordance with Section 2.03(b) and (2) to honor drawings under the Letters of Credit; and (B) the U.S. Tranche Revolving Lenders severally agree to participate in U.S. Tranche Letters of Credit and the Alternative Currency Tranche Revolving Lenders severally agree to participate in Alternative Currency Tranche Letters of Credit, in each case issued for the account of the Borrower (which may be in support of obligations of the Borrower or in support of obligations of a Subsidiary) and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (A) the Total Revolving Outstandings shall not exceed the Revolving Facility, (B) the Revolving Exposure of any Revolving Lender shall not exceed such Lender's Revolving Commitment, (C) the U.S. Tranche Revolving Exposure of any U.S. Tranche Revolving Lender shall not exceed such Lender's U.S. Tranche Revolving Commitment, (D) the Alternative Currency Tranche Revolving Exposure of any Alternative Currency Tranche Revolving Lender shall not exceed such Lender's Alternative Currency Tranche Revolving Commitment and (E) the Outstanding Amount of all L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) The L/C Issuer shall not issue any Letter of Credit if:

(A) the expiry date of such Letter of Credit would occur more than twelve (12) months after the date of issuance, unless the Required Lenders have approved such expiry date; or

(B) the expiry date of such Letter of Credit would occur after the Letter of Credit Expiration Date, except that a Letter of Credit may expire up to one year beyond the Maturity Date of the Revolving Facility so long as the Borrower Cash Collateralizes (as provided in Section 2.14) the L/C Obligations with respect to such Letter of Credit no later than 30 days prior to the Letter of Credit Expiration Date).

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose

upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, such Letter of Credit is in an initial stated amount less than \$50,000;

(D) such Letter of Credit is to be denominated in a currency other than an Approved Currency;

(E) any Revolving Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion) with the Borrower or such Revolving Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.15(a)(iv)) with respect to such Defaulting Lender arising from either such Letter of Credit or such Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion;

(F) the L/C Issuer does not as of the issuance date of such Letter of Credit issue letters of credit in the requested currency; or

(G) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the L/C Issuer with respect to such acts or omissions and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the

Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer. Such Letter of Credit Application may be sent by fax transmission, by United States mail, by overnight courier, by electronic transmission using the system provided by the L/C Issuer, by personal delivery or by any other means acceptable to the L/C Issuer. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two (2) Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof and the Approved Currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Revolving Lender, the Administrative Agent or the Borrower, at least one (1) Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower (which may be in support of obligations of the Borrower or in support of obligations of a Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Lender's Applicable Revolving Percentage times the amount of such Letter of Credit.

(iii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon any drawing under any Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. In the case of a U.S. Tranche Letter of Credit, the Borrower shall reimburse the L/C Issuer through the Administrative Agent in Dollars. In the case of an Alternative Currency Tranche Letter of Credit, the Borrower shall reimburse the L/C Issuer through the Administrative Agent in such Alternative Currency, unless (A) the L/C Issuer (at its option) shall have specified in such notice that it will require reimbursement in Dollars, or (B) in the absence of any such requirement for reimbursement in Dollars, the Borrower shall have notified the L/C Issuer and the Administrative Agent promptly following receipt of the notice of drawing that the Borrower will reimburse the L/C Issuer in Dollars. In the case of any such reimbursement in Dollars of a drawing under an Alternative Currency Tranche Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent of the Dollar Equivalent of the amount of such drawing promptly following the determination thereof. Not later than (x) 11:00 a.m. on the date of any payment by the L/C Issuer under a U.S. Tranche Letter of Credit to be reimbursed in Dollars and (y) the Applicable Time on the date of any payment by the L/C Issuer under an Alternative Currency Tranche Letter of Credit to be reimbursed in an Alternative Currency (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in Dollars or in the applicable Alternative Currency, as the case may be. If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each applicable Revolving Lender of the Honor Date, the amount of the unreimbursed drawing (in the Approved Currency in which such Letter of Credit was issued) (the "Unreimbursed Amount"), and the amount of such Revolving Lender's Applicable Revolving Percentage thereof. In such event, in the case of (i) a U.S. Tranche Letter of Credit, the Borrower shall be deemed to have requested a U.S. Tranche Revolving Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the U.S. Tranche Revolving Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Loan Notice) and (ii) an Alternative Currency Tranche Letter of Credit, the Borrower shall be deemed to have requested an Alternative Currency Tranche Revolving Borrowing of Eurodollar Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Eurodollar Rate Loans denominated in an Alternative Currency, but subject to the amount of the unutilized portion of the Alternative Currency Tranche Revolving Commitment and the conditions set forth in Section 4.02 (other than the delivery of a Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available for the account of the L/C Issuer, in the Approved Currency in which the applicable Letter of Credit was issued, at the Administrative Agent's Office in an amount equal to its Applicable Revolving Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Revolving Lender that so makes funds

available shall be deemed to have made a U.S. Tranche Revolving Loan or an Alternative Currency Tranche Revolving Loan, as applicable, to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer in the applicable Approved Currency.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Borrowing because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section.

(iv) Until each Revolving Lender funds its Revolving Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Revolving Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Revolving Lender's obligation to make Revolving Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Lender's obligation to make Revolving Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Revolving Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be, as of the date of such Revolving Borrowing or L/C Borrowing. A certificate of the L/C Issuer

submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Revolving Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer and distributed to the Revolving Lenders pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Revolving Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing and each Revolving Credit Loan made pursuant to Section 2.03(c)(ii) shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, endorsement, certificate or other document presented under or in connection with such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of the Borrower or any waiver by the L/C Issuer which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(viii) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency to the Borrower or any Subsidiary or in the relevant currency markets generally; or

(ix) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any of its Subsidiaries.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties or any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not

intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against such beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any Lender, any of their respective Related Parties or any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower, as determined by a final nonappealable judgment of a court of competent jurisdiction, were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit (other than as a result of an order of a court of competent jurisdiction). In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring, endorsing or assigning or purporting to transfer, endorse or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary thereof via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to the Borrower for, and the L/C Issuer's rights and remedies against the Borrower shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade-International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Lender in accordance, subject to Section 2.15, with its Applicable Revolving Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (A) due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on

demand and (B) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee (i) with respect to each Letter of Credit, at a rate equal to equal to 1/8 of 1% per annum times the face amount of such Letter of Credit, and payable upon the issuance thereof and (ii) with respect to any amendment of a Letter of Credit increasing the amount of such Letter of Credit, at a rate equal to equal to 1/8 of 1% per annum times the amount of such increase, and payable upon the effectiveness of such amendment. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

Section 2.04 Swingline Loans.

(a) The Swingline. Subject to the terms and conditions set forth herein, the Swingline Lender, in reliance upon the agreements of the other Lenders set forth in this Section, may in its sole discretion make loans in Dollars (each such loan, a "Swingline Loan"). Each Swingline Loan may be made, subject to the terms and conditions set forth herein, to the Borrower, in Dollars, from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the Swingline Sublimit, notwithstanding the fact that such Swingline Loans, when aggregated with the Applicable Revolving Percentage of the Outstanding Amount of Revolving Loans, Bid Loans and L/C Obligations of the Lender acting as Swingline Lender, may exceed the amount of such Lender's Revolving Commitment; provided, however, that (i) after giving effect to any Swingline Loan, (A) the Total Revolving Outstandings shall not exceed the Revolving Facility at such time and (B) the Revolving Exposure of any Revolving Lender at such time shall not exceed such Lender's Revolving Commitment, (ii) the Borrower shall not use the proceeds of any Swingline Loan to refinance any outstanding Swingline Loan and (iii) the Swingline Lender shall not be under any obligation to make any Swingline Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the

Borrower may borrow under this Section, prepay under Section 2.05, and reborrow under this Section. Each Swingline Loan shall bear interest as provided in Section 2.08(a)(iv). Immediately upon the making of a Swingline Loan, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swingline Lender a risk participation in such Swingline Loan in an amount equal to the product of such Revolving Lender's Applicable Revolving Percentage times the amount of such Swingline Loan.

(b) Borrowing Procedures. Each Swingline Borrowing shall be made upon the Borrower's irrevocable notice to the Swingline Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swingline Lender and the Administrative Agent not later than 11:00 a.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$1,000,000 and if in excess thereof, in integral multiples of \$1,000,000, or, if less, the unused portion of the Swing Line Sublimit and (ii) the requested date of such Swingline Borrowing (which shall be a Business Day). Each such telephonic notice must be confirmed promptly by delivery to the Swingline Lender and the Administrative Agent of a written Swingline Loan Notice, appropriately completed and signed by a Responsible Officer. Promptly after receipt by the Swingline Lender of any telephonic Swingline Loan Notice, the Swingline Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swingline Loan Notice and, if not, the Swingline Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swingline Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Lender) prior to 2:00 p.m. on the date of the proposed Swingline Borrowing (A) directing the Swingline Lender not to make such Swingline Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swingline Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swingline Loan Notice, make the amount of its Swingline Loan available to the Borrower.

(c) Refinancing of Swingline Loans.

(i) The Swingline Lender at any time in its sole discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swingline Lender to so request on its behalf), that each Revolving Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Revolving Percentage of the amount of Swingline Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Revolving Facility and the conditions set forth in Section 4.02. The Swingline Lender shall furnish the Borrower with a copy of the applicable Loan Notice promptly after delivering such Loan Notice to the Administrative Agent. Each Revolving Lender shall make an amount equal to its Applicable Revolving Percentage of the amount specified in such Loan Notice available to the Administrative Agent in immediately available funds for the account of the Swingline Lender at the Administrative Agent's Office for Dollar-denominated payments not later than 1:00 p.m. on the day specified in such Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Lender that so makes funds available

shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swingline Lender.

(ii) If for any reason any Swingline Loan cannot be refinanced by such a Revolving Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swingline Lender as set forth herein shall be deemed to be a request by the Swingline Lender that each of the Revolving Lenders fund its risk participation in the relevant Swingline Loan and each Revolving Lender's payment to the Administrative Agent for the account of the Swingline Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Lender fails to make available to the Administrative Agent for the account of the Swingline Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swingline Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swingline Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swingline Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swingline Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Revolving Borrowing or funded participation in the relevant Swingline Loan, as the case may be, as of the date of such Revolving Borrowing or funded participation. A certificate of the Swingline Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Lender's obligation to make Revolving Loans or to purchase and fund risk participations in Swingline Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Lender's obligation to make Revolving Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Loan Notice). No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swingline Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Lender has purchased and funded a risk participation in a Swingline Loan, if the Swingline Lender receives any payment on account of such Swingline Loan, the Swingline Lender will distribute to such Revolving Lender its Applicable Revolving Percentage thereof in the same funds as those received by the Swingline Lender.

(ii) If any payment received by the Swingline Lender in respect of principal of or interest on any Swingline Loan and paid to the Revolving Lenders is required to be returned by the Swingline Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swingline Lender in its discretion), each Revolving Lender shall pay to the Swingline Lender its Applicable Revolving Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swingline Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swingline Lender. The Swingline Lender shall be responsible for invoicing the Borrower for interest on the Swingline Loans. Until each Revolving Lender funds its Base Rate Loan or risk participation pursuant to this Section to refinance such Revolving Lender's Applicable Revolving Percentage of any Swingline Loan, interest in respect of such Applicable Revolving Percentage shall be solely for the account of the Swingline Lender.

(f) Payments Directly to Swingline Lender. The Borrower shall make all payments of principal and interest in respect of the Swingline Loans directly to the Swingline Lender.

Section 2.05 Prepayments.

(a) Optional.

(i) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans and Revolving Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Administrative Agent not later than 11:00 a.m. (1) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans and (2) on the date of prepayment of Base Rate Loans; and (B) any prepayment of any Loan shall be in a principal amount of \$3,000,000 or a whole multiple of \$1,000,000 in excess thereof; or, in each case, if less, the entire principal amount thereof then outstanding and (3) Bid Loans may not be voluntarily prepaid at any time without the prior written consent of the Lender or Lenders making such Bid Loans. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Eurodollar Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Applicable Percentage in respect of the relevant Facility). If such notice is given by the Borrower, the Borrower shall make such prepayment and the prepayment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.15, such prepayments shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(ii) The Borrower may, upon notice to the Swingline Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swingline Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Swingline Lender and the Administrative Agent not later than 1:00 p.m. on the date of such prepayment and (B) any such prepayment shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess hereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the prepayment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.

(b) Mandatory.

(i) Outstandings. If for any reason at any time (A) the Total Revolving Outstandings at such time exceed the Revolving Facility as then in effect, (B) the Outstanding Amount of L/C Obligations at such time exceeds the Letter of Credit Sublimit as then in effect, (C) the Outstanding Amount of Swingline Loans at such time exceeds the Swingline Sublimit as then in effect, (D) the Outstanding Amount of Bid Loans at such time exceeds the Bid Loan Sublimit as then in effect, (E) the Outstanding Amount of all U.S. Tranche Revolving Loans at such time exceeds the U.S. Tranche Revolving Commitments as then in effect, or (F) the Outstanding Amount of all Alternative Currency Tranche Revolving Loans at such time exceeds the Alternative Currency Tranche Revolving Commitments as then in effect, the Borrower shall immediately prepay Loans and L/C Borrowings (together with all accrued but unpaid interest thereon) and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that, subject to the provisions of the last sentence of Section 2.14(a), the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b)(i) unless, after the prepayment in full of the Revolving Loans, the Swingline Loans and the Bid Loans, the Total Revolving Outstandings exceed the Revolving Facility at such time.

(ii) Application of Payments. Except as otherwise provided in Section 2.15, prepayments in respect of the Revolving Facility made pursuant to this Section 2.05(b), first, shall be applied ratably to the L/C Borrowings and the Swingline Loans, second, shall be applied to the outstanding Revolving Loans, and, third, shall be used to Cash Collateralize the remaining L/C Obligations. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any Defaulting Lender that has provided Cash Collateral) to reimburse the L/C Issuer or the Revolving Lenders, as applicable.

Within the parameters of the applications set forth above, prepayments pursuant to this Section 2.05(b) shall be applied first to Base Rate Loans and then to Eurodollar Rate Loans in direct order of Interest Period maturities. All prepayments under this Section 2.05(b) shall be subject to Section 3.05, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

Section 2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Facility, or from time to time permanently reduce the Revolving Facility; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$1,000,000 in excess thereof and (iii) the Borrower shall not terminate or reduce the Revolving Facility if, after giving effect thereto and to any concurrent prepayments hereunder, (A) the Total Revolving Outstandings would exceed the Revolving Facility, (B) the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, (C) the Outstanding Amount of Swingline Loans would exceed the Swingline Sublimit, (D) the Outstanding Amount of Bid Loans would exceed the Bid Loan Sublimit (E) the Outstanding Amount of all U.S. Tranche Revolving Loans at such time would exceed the U.S. Tranche Revolving Commitments as then in effect, or (F) the Outstanding Amount of all Alternative Currency Tranche Revolving Loans at such time would exceed the Alternative Currency Tranche Revolving Commitments as then in effect. In addition, during the Availability Period in respect of the Term Facility, the Borrower may, upon notice to the Administrative Agent as set forth above, terminate in whole the aggregate Term Commitments.

(b) Mandatory.

(i) The aggregate Term Commitments shall be automatically and permanently reduced to zero on the date of the Term Borrowing.

(ii) If after giving effect to any reduction or termination of Revolving Commitments under this Section 2.06, the Letter of Credit Sublimit, the Swingline Sublimit, the U.S. Tranche Revolving Commitments or the Alternative Currency Tranche Revolving Commitments would exceed the Revolving Facility at such time, the Letter of Credit Sublimit, the Swingline Sublimit, the U.S. Tranche Revolving Commitments or the Alternative Currency Tranche Revolving Commitments, as the case may be, shall be automatically reduced by the amount of such excess.

(c) Application of Commitment Reductions; Payment of Fees.

(i) The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Revolving Commitments, the Letter of Credit Sublimit, the Swingline Sublimit, the U.S. Tranche Revolving Commitments or the Alternative Currency Tranche Revolving Commitments under this Section 2.06. Upon any reduction of the Revolving Commitments, the Letter of Credit Sublimit, the Swingline Sublimit, the U.S. Tranche Revolving Commitments or the Alternative Currency Tranche Revolving Commitments, the Revolving Commitment, the Letter of Credit Sublimit, the Swingline Sublimit, the U.S. Tranche Revolving Commitment and the Alternative Currency Tranche Revolving Commitment of each Revolving Lender, as applicable, shall be reduced by such Lender's Applicable Revolving Percentage of such reduction amount. All fees in respect of the Revolving Facility accrued until the effective date of any termination of the Revolving Facility shall be paid on the effective date of such termination.

(ii) The Administrative Agent will promptly notify the Lenders of any termination of the aggregate Term Commitments under this Section 2.06. All fees in respect of the Term Facility accrued until the effective date of any termination of the Term Facility shall be paid on the effective date of such termination.

Section 2.07 Repayment of Loans.

(a) Term Loans. The Borrower shall repay to the Term Lenders the aggregate principal amount of all Term Loans outstanding on the Maturity Date for the Term Facility.

(b) Revolving Loans. The Borrower shall repay to the Revolving Lenders on the Maturity Date for the Revolving Facility the aggregate principal amount of all Revolving Loans outstanding on such date.

(c) Bid Loans. All outstanding Bid Loans shall be paid in full on the maturity date thereof as provided in the applicable Bid Loan Quote Request but, in any event, not later than the Maturity Date for the Revolving Facility.

(d) Swingline Loans. The Borrower shall repay each Swingline Loan on the earlier to occur of (i) the date fifteen (15) Business Days after such Loan is made and (ii) the fifth Business Day prior to the Maturity Date for the Revolving Facility.

Section 2.08 Interest and Default Rate.

(a) Interest. Subject to the provisions of Section 2.08(b), (i) each Eurodollar Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof for each Interest Period from the applicable borrowing date at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate for such Facility plus (in the case of a Eurodollar Rate Loan of any Lender which is lent from a Lending Office in the United Kingdom or a Participating Member State) the Mandatory Cost; (ii) each Base Rate Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for such Facility; (iii) each Bid Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Absolute Rate quoted by the Lender or Lenders making such Bid Loan pursuant to Section 2.01(c) and (iv) each Swingline Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for the Revolving Facility.

(b) Default Rate.

(i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable

grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists, outstanding Obligations (including Letter of Credit Fees) may accrue at a fluctuating rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest Payments. Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.09 Fees.

In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) Facility Fee. The Borrower shall pay to the Administrative Agent for the account of each Revolving Lender in accordance with its Applicable Revolving Percentage, a facility fee (the "Facility Fee") equal to the Applicable Rate times the actual daily amount of the Revolving Facility (or, if the Revolving Facility has terminated, on the Outstanding Amount of all Revolving Loans, Bid Loans, Swingline Loans and L/C Obligations), regardless of usage, subject to adjustment as provided in Section 2.15. The Facility Fee shall accrue at all times during the Availability Period for the Revolving Facility (and thereafter so long as any Revolving Loans, Bid Loans, Swingline Loans or L/C Obligations remain outstanding), including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period for the Revolving Facility (and, if applicable, thereafter on demand). The Facility Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Term Lender in accordance with its Applicable Percentage of the Term Facility, a commitment fee equal to 17.50 basis points times the daily average amount of the aggregate Term Commitments, for the period from the Closing Date to and including the earlier of (i) the date the Term Loan is made (or the Term Facility is otherwise terminated) and (ii) sixty (60) days after the Closing Date. The accrued commitment fee shall be payable on the first Interest Payment Date for the Term Loans, or if there are no such Terms Loans, on the last day of the Availability Period for the Term Facility.

(c) Letter of Credit Fees. The Borrower shall pay Letter of Credit fees as set forth in Sections 2.03(h) and (i).

(d) Other Fees.

(i) The Borrower shall pay to the Administrative Agent for its own account such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay to the Lenders and/or their Affiliates such additional fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

Section 2.10 Computation of Interest and Fees.

All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurodollar Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year), or, in the case of interest in respect of Alternative Currency Tranche Revolving Loans as to which market practice differs from the foregoing, in accordance with such market practice. Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which such Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.11 Evidence of Debt.

(a) Maintenance of Accounts. The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Maintenance of Records. In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swingline Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Section 2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. All payments of principal of and interest on any Loan shall be payable in the same currency as such Loan is denominated. All payments of fees pursuant to Section 2.09 shall be payable in Dollars. All payments in respect of Unreimbursed Amounts shall be payable in the currency provided in Section 2.03. All other payments herein shall be payable in the currency specified with respect to such payment or, if the currency is not specified, in Dollars. Except as otherwise expressly provided herein, (x) all payments by the Borrower in Dollars hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. (New York time) on the date specified herein and (y) all payments by the Borrower in any Alternative Currency hereunder shall be made to the Administrative Agent's Office for payments in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the date specified herein. Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, the Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, the Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. (in the case of payments in Dollars) or the Applicable Time specified by the Administrative Agent (in the case of payments in an Alternative Currency) shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Subject to the definition of "Interest Period," and as otherwise specifically provided for in this Agreement, if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share

available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then such Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing as of the date of such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders or the L/C Issuer, as the case may be, receiving any such payment severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Term Loans and Revolving Loans, to fund participations in Letters of Credit and Swingline Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Pro Rata Treatment. Except to the extent otherwise provided herein: (i) each Borrowing (other than Swingline Borrowings and Bid Loans) shall be made from the Appropriate Lenders, each payment of fees under Sections 2.03(h) and (i) and Sections 2.09(a) and (b) shall be made for account of the Appropriate Lenders, and each termination or reduction of the amount of the Commitments shall be applied to the respective Commitments of the Lenders, pro rata according to the amounts of their respective Commitments; (ii) each Borrowing (other than Swingline Borrowings and Bid Loans) shall be allocated pro rata among the Lenders according to the amounts of their respective Commitments (in the case of the making of Revolving Loans and Term Loans) or their respective Loans that are to be included in such Borrowing (in the case of conversions and continuations of Loans); (iii) each payment or prepayment of principal of Loans by the Borrower (other than Swingline Borrowings and Bid Loans) shall be made for account of the Appropriate Lenders pro rata in accordance with the respective unpaid principal amounts of the Loans held by them; and (iv) each payment of interest on Loans (other than Swingline Borrowings and Bid Loans) by the Borrower shall be made for account of the Appropriate Lenders pro rata in accordance with the amounts of interest on such Loans then due and payable to the respective Appropriate Lenders.

Section 2.13 Sharing of Payments by Lenders.

(a) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations in respect of any of the Facilities due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of the Facilities due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations in respect of any of the Facilities owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations in respect of the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations in respect of

the Facilities owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time, then, in each case under clauses (a) and (b) above, the Lender receiving such greater proportion shall (A) notify the Administrative Agent of such fact and (B) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swingline Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations in respect of the Facilities then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(1) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(2) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.14, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swingline Loans to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply).

(b) If a Lender shall effect payment of any principal of or interest or fee on Bid Loans made as part of the same Bid Loan Borrowing held by it under this Agreement through the exercise of any right of set-off, banker' s lien, counterclaim or similar right, it shall promptly purchase from the other Lenders holding such Bid Loans participations in such Bid Loans held by the other Lenders holding such Bid Loans in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all the Lenders holding such Bid Loans shall share the benefit of such payment pro rata in accordance with the unpaid amount of principal and interest or fee on Bid Loans of the same Bid Loan Borrowing held by each of them. To such end all such Lenders shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored. The Borrower agrees that any Lender so purchasing a participation in Bid Loans of the same Bid Loan Borrowing held by other Lenders may exercise all rights of set-off, banker' s lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of such Bid Loans in the amount of such participation.

(c) Nothing contained herein shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise and retain the benefits of exercising, any such right with respect to any other indebtedness or obligation of the Borrower.

(d) The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with

respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

Section 2.14 Cash Collateral.

(a) Certain Credit Support Events. If (i) the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrower shall be required to provide Cash Collateral pursuant to Section 2.05 or 8.02(c), or (iv) there shall exist a Defaulting Lender, the Borrower shall immediately (in the case of clause (iii) above) or within one (1) Business Day (in all other cases) following any request by the Administrative Agent or the L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.15(a)(iv) and any Cash Collateral provided by such Defaulting Lender). The Administrative Agent may, at any time and from time to time after the initial deposit of Cash Collateral, request that additional Cash Collateral be provided in order to protect against the results of exchange rate fluctuations.

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.14(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at the Administrative Agent. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.14 or Sections 2.03, 2.05, 2.15 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Revolving Lender that is a Defaulting Lender, any interest accrued on such obligation) and other obligations for which such Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Revolving Lender (or,

as appropriate, its assignee following compliance with Section 10.06(b)(vi)) or (ii) the determination by the Administrative Agent and the L/C Issuer that there exists excess Cash Collateral; provided, however, (A) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents and (B) the Person providing Cash Collateral and the L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

Section 2.15 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 10.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuer or Swingline Lender hereunder; third, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.14; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (B) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.14; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuer or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise as may be required under the Loan Documents in connection with any Lien conferred thereunder or directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its

appropriate share and (2) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.15(a)(v). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.15(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) Fees. Each Defaulting Lender shall be entitled to receive fees payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender only to extent allocable to the sum of (1) the outstanding principal amount of the Revolving Loans funded by it and (2) its Applicable Revolving Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.14. No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Letter of Credit Fees. Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Revolving Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.14.

(C) Defaulting Lender Fees. With respect to any fee payable under Section 2.09(a) or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (2) pay to the L/C Issuer and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the L/C Issuer's or Swingline Lender's Fronting Exposure to such Defaulting Lender and (3) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Revolving Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Revolving Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (A) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and

warranted that such conditions are satisfied at such time) and (B) such reallocation does not cause the Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (A) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (B) second, Cash Collateralize the L/C Issuer's Fronting Exposure in accordance with the procedures set forth in Section 2.14.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, the Swingline Lender and the L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender (provided that the Borrower's agreement shall not be required if an Event of Default has occurred and is continuing at the time of such agreement), the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.15(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.16 Increase in Revolving Facility.

(a) The Borrower may at its sole expense and effort and after consulting with the Administrative Agent, request: (i) one or more Lenders acceptable to the Administrative Agent to increase (in the sole and absolute discretion of each such Lender) the amount of their respective Revolving Commitments, and/or (ii) one or more other lending institutions acceptable to the Administrative Agent (each, a "New Revolving Lender") to become "Revolving Lenders" and extend Revolving Commitments hereunder (each such existing Lender and each New Revolving Lender being referred to as a "Proposed Revolving Lender"). To request an increase pursuant to this Section 2.16 (the "Revolving Facility Increase"), the Borrower shall submit to the Administrative Agent a written increase request signed by the Borrower and in form approved by the Administrative Agent (the "Revolving Increase Request"), which shall specify, as the case may be: (A) each such existing Lender and the amount of the proposed increase to its Revolving Commitment, or (B) the proposed Revolving Commitment for each New Revolving

Lender. Promptly following receipt of the Revolving Increase Request, the Administrative Agent shall advise each Proposed Revolving Lender of the details thereof.

(b) If one or more Proposed Revolving Lender(s) shall have unconditionally agreed to such Revolving Increase Request in a writing delivered to the Borrower and the Administrative Agent at any time prior to the 30th day following the date of the delivery to such Proposed Revolving Lenders(s) of the Revolving Increase Request (each such Proposed Revolving Lender being hereinafter referred to as an “Incremental Revolving Lender”), then: (x) each such Incremental Revolving Lender which shall then be an existing Lender shall have its Revolving Commitment increased by the amount set forth in the Revolving Increase Request and (y) each such Incremental Revolving Lender which shall then be a New Lender shall be and become a “Revolving Lender” hereunder having a Revolving Commitment equal to the amount set forth in such Revolving Increase Request, provided, however, that (1) immediately before and after giving effect thereto, no Default or Event of Default shall or would exist, (2) each such Incremental Revolving Lender shall have executed and delivered to the Administrative Agent a supplement to this Agreement providing for its increased Revolving Commitment or its Revolving Commitment, as applicable, in form approved by the Administrative Agent, (3) immediately after giving effect thereto, the aggregate amount of the increase to the Revolving Facility established pursuant to this Section 2.16 and the Incremental Term Loan Commitments established pursuant to Section 2.17 shall not exceed \$1,000,000,000, (4) the increase of the Revolving Facility specified in the Revolving Increase Request shall be not less than \$25,000,000 or an integral multiple thereof, (5) the minimum Revolving Commitment extended by each Incremental Revolving Lender which is a New Revolving Lender shall be in an amount of not less than \$15,000,000 or an integral multiple of \$1,000,000 in excess thereof, and (6) the minimum increase to the Revolving Commitment extended by each Incremental Revolving Lender which is an existing Lender shall be in an amount of not less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof. Any increase in the Revolving Facility shall not increase the Letter of Credit Commitment or Swing Line Commitment.

(c) Simultaneously with each Revolving Facility Increase under this Section 2.16, each Incremental Revolving Lender shall, to the extent necessary, purchase from each other existing Lender, and each other existing Lender shall sell to each Incremental Revolving Lender, in each case at par and without representation, warranty, or recourse (in accordance with and subject to the restrictions contained in Section 10.13), such principal amount of Revolving Loans of such other existing Lender(s), together with all accrued and unpaid interest thereon, as will result, after giving effect to such transaction, in each Lender’s Applicable Revolving Percentage of outstanding Revolving Loans being equal to such Lender’s Applicable Revolving Percentage of the Revolving Facility, provided that each such assignor Lender shall have received (to the extent of the interests, rights and obligations assigned) payment then due and owing of the outstanding principal amount of its Revolving Loans, accrued interest thereon, accrued fees, commissions and all other amounts payable to it under the Loan Documents from the applicable assignee Lenders (to the extent of such outstanding principal and accrued interest, fees and commissions) or the Borrower (in the case of all other amounts).

(d) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

Section 2.17 Incremental Term Loan Commitments.

(a) In the event that the Lenders shall have made the initial Term Loans pursuant to Section 2.01(a) on or prior to the last day of the Availability Period for the Term Facility, the Borrower may at its sole expense and effort and after consulting with the Administrative Agent, at any time after the last day of the Availability Period for the Term Facility, request: (i) one or more Lenders to establish (in the sole and absolute discretion of each such Lender) additional Term Commitments and/or (ii) one or more other lending institutions acceptable to the Administrative Agent (each, a “New Term Lender”) to become “Term Lenders” and establish Term Commitments hereunder (each such existing Lender and each New Term Lender being referred to as a “Proposed Term Lender”). To request an extension of additional or new Term Commitments pursuant to this Section 2.17 (the “Incremental Term Commitment”), the Borrower shall submit to the Administrative Agent a written request signed by the Borrower and in form approved by the Administrative Agent (the “Incremental Term Loan Request”), which shall specify, as the case may be: (A) each such existing Lender and the amount of the proposed Incremental Term Commitment, or (B) the proposed Term Commitment for each New Term Lender. Promptly following receipt of the Incremental Term Loan Request, the Administrative Agent shall advise each Proposed Term Lender of the details thereof.

(b) If one or more Proposed Term Lender(s) shall have unconditionally agreed to such Incremental Term Loan Request in a writing delivered to the Borrower and the Administrative Agent at any time prior to the 30th day following the date of the delivery to such Proposed Term Lender(s) of the Incremental Term Loan Request (each such Proposed Term Lender being hereinafter referred to as an “Incremental Term Lender”), then: (x) each such Incremental Term Lender which shall then be an existing Lender shall have its Term Loan Commitment increased by the amount set forth in the Incremental Term Loan Request and (y) each such Incremental Term Lender which shall then be a New Term Lender shall be and become a “Term Lender” hereunder having a Term Loan Commitment equal to the amount set forth in such Incremental Term Loan Request, provided, however, that (1) immediately before and after giving effect thereto, no Default or Event of Default shall or would exist, (2) each such Incremental Term Lender shall have executed and delivered to the Administrative Agent a supplement to this Agreement providing for its increased Term Commitment or its Term Commitment, as applicable, in form approved by the Administrative Agent, (3) immediately after giving effect thereto, the aggregate amount of the Incremental Revolving Commitments established pursuant to Section 2.16 and the Incremental Term Loan Commitments established pursuant to this Section 2.17 shall not exceed \$1,000,000,000, (4) the increase of the Term Facility specified in the Incremental Term Loan Request shall be not less than \$25,000,000 or an integral multiple thereof, (5) the minimum Term Commitment established by each Incremental Term Lender which is a New Term Lender shall be in an amount of not less than \$15,000,000 or an integral multiple of \$1,000,000 in excess thereof, (6) the minimum increase to the Term Commitment established by each Incremental Term Lender which is an existing Lender shall be in an amount of not less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof and (7) on the effective date of each Incremental Term Commitment, the Borrower shall borrow an amount equal to the full amount of such Incremental Term Commitment.

Section 2.18 Extension of Maturity Date for Revolving Facility.

Subject to the following provisions, the Borrower shall have the option to extend the initial Maturity Date for the Revolving Facility to March 31, 2018. By written notice to the Administrative Agent delivered at least 30 days, but not more than 90 days, prior to the initial Maturity Date for the Revolving Facility, so long as no Default or Event of Default has occurred, the Borrower may request such extension of the initial Maturity Date for the Revolving Facility (which request shall be accompanied by a Compliance Certificate). Promptly upon receipt of such written notice, the Administrative Agent shall deliver a copy to each Revolving Lender and the initial Maturity Date for the Revolving Facility shall be deemed so extended. In the event that the Borrower shall have delivered an extension notice under this Section 2.18 the Borrower shall pay to the Administrative Agent for the ratable benefit of the Lenders on the initial Maturity Date for the Revolving Facility, a non-refundable extension fee in an amount equal to 15 basis points multiplied by the Revolving Facility, as then in effect.

Section 2.19 Extension of Maturity Date for Term Facility.

Subject to the following provisions, the Borrower shall have the option to extend the Maturity Date for the Term Facility then in effect hereunder (the "Existing Maturity Date for the Term Facility"), for two one year periods. By written notice to the Administrative Agent delivered at least 30 days, but not more than 90 days, prior to the Existing Maturity Date for the Term Facility, so long as no Default or Event of Default has occurred, the Borrower may request a one year extension of the Existing Maturity Date for the Term Facility (which request shall be accompanied by a Compliance Certificate). Promptly upon receipt of each such written notice, the Administrative Agent shall deliver a copy to each Lender and the Existing Maturity Date for the Term Facility shall be deemed extended for a one year period. In the event that the Borrower shall have delivered an extension notice under this Section 2.19 the Borrower shall pay to the Administrative Agent for the ratable benefit of the Lenders on each Existing Maturity Date for the Term Facility, a non-refundable extension fee in an amount equal to 12.5 basis points multiplied by the Term Facility, as then in effect. In no event shall the Maturity Date for the Term Facility extend beyond March 31, 2018.

ARTICLE III

TAXES, YIELD PROTECTION AND ILLEGALITY

Section 3.01 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or the Borrower, then the Administrative Agent or the Borrower shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If the Borrower or the Administrative Agent shall be required by the Code to withhold or deduct any Taxes, including both United States federal backup withholding and withholding taxes, from any payment, then (A) the Administrative Agent shall withhold or make such deductions as are determined by the Administrative Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Administrative Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If the Borrower or the Administrative Agent shall be required by any applicable Laws other than the Code to withhold or deduct any Taxes from any payment, then (A) the Borrower or the Administrative Agent, as required by such Laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Borrower or the Administrative Agent, to the extent required by such Laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications.

(i) The Borrower shall, and does hereby, indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error. The Borrower shall also, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for any amount which a Lender or the L/C Issuer for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(c)(ii).

(ii) Each Lender and the L/C Issuer shall, and does hereby, severally indemnify and shall make payment in respect thereof within ten (10) days after demand therefor, (A) the Administrative Agent against any Indemnified Taxes attributable to such Lender or the L/C Issuer (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (B) the Administrative Agent and the Borrower, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (C) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender or the L/C Issuer, in each case, that are payable or paid by the Administrative Agent or the Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate 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 and the L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(d) Evidence of Payments. Upon request by the Borrower or the Administrative Agent, as the case may be, after any payment of Taxes by the Borrower or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D)) shall not be required if in such Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of 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 (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN; or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by

applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower 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 this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) and net of any loss or gain realized in the conversion of such funds from or to another currency incurred by such Recipient, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Recipient, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Borrower pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise with respect to such refund had never been paid. This subsection shall not be construed to require the Recipient to make

available its tax returns (or any other information relating to its taxes that it deems confidential) to, or to file for or otherwise pursue any refund on behalf of, the Borrower or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

Section 3.02 Illegality.

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, any Approved Currency in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (a) any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on such Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 3.03 Inability to Determine Rates.

If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Loan or a conversion to or continuation thereof that (a) deposits (whether denominated in Dollars or an Alternative Currency) are not being offered to banks in the applicable offshore interbank market for such currency for the applicable amount and Interest Period of such Eurodollar Rate Loan, (b) adequate and reasonable means do not exist for

determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan (whether denominated in Dollars or an Alternative Currency) or in connection with an existing or proposed Base Rate Loan, or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain Eurodollar Rate Loans in the affected currency or currencies shall be suspended and (ii) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Loans in the affected currency or currencies under the appropriate Facility or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans under the appropriate Facility in the amount specified therein.

Section 3.04 Increased Costs; Reserves on Eurodollar Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except (A) any reserve requirement contemplated by Section 3.04(e) and (B) the requirements of the Bank of England and the Financial Services Authority or the European Central Bank to the extent reflected in the Mandatory Cost, other than as set forth below) or the L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

(iii) result in the failure of the Mandatory Cost, as calculated hereunder, to represent the cost to any Lender of complying with the requirements of the Bank of England and/or the Financial Services Authority or the European Central Bank in relation to its making, funding or maintaining Eurodollar Rate Loans; or

(iv) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan the interest on which is determined by reference to the Eurodollar Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit),

or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender' s or the L/C Issuer' s holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender' s or the L/C Issuer' s capital or on the capital of such Lender' s or the L/C Issuer' s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender' s or the L/C Issuer' s holding company could have achieved but for such Change in Law (taking into consideration such Lender' s or the L/C Issuer' s policies and the policies of such Lender' s or the L/C Issuer' s holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender' s or the L/C Issuer' s holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender' s or the L/C Issuer' s right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender' s or the L/C Issuer' s intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the

Borrower shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest shall be due and payable ten (10) days from receipt of such notice.

Section 3.05 Compensation for Losses.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

- (a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);
- (b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert into any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower;
- (c) any failure by the Borrower to make payment of any Loan or drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency; or
- (d) any assignment of a Eurodollar Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurodollar Rate Loan made by it at the Eurodollar Rate for such Loan by a matching deposit or other borrowing in the offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Loan was in fact so funded. A certificate of a Lender setting forth in detail sufficient to enable the Borrower to verify the computation of the amount or amounts necessary to compensate such Lender as specified in this Section and delivered to the Borrower shall be conclusive absent manifest error.

Section 3.06 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, the L/C Issuer, or any Governmental Authority for the account of any Lender or the L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower, such Lender or the L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking

its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of such Lender or the L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or the L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or the L/C Issuer, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or the L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 10.13.

Section 3.07 Survival.

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, resignation of the Administrative Agent and the Facility Termination Date.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Section 4.01 Conditions of Initial Credit Extension.

The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Execution of Credit Agreement; Loan Documents. The Administrative Agent shall have received (i) counterparts of this Agreement, executed by a Responsible Officer and a duly authorized officer of each Lender, (ii) a Note executed by a Responsible Officer for the account of each Lender requesting a Note, payable to the order of each such requesting Lender and (iii) counterparts of any other Loan Document, executed by a Responsible Officer and a duly authorized officer of each other Person party thereto.

(b) Officer's Certificate. The Administrative Agent shall have received a certificate of a Responsible Officer (in substantially the form of Exhibit G attached hereto) dated the Closing Date, certifying as to the Organization Documents of the Borrower (which, to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority), the resolutions of the governing body of the Borrower, the good standing, existence or its equivalent of the Borrower and of the incumbency of the Responsible Officers.

(c) Legal Opinion of Counsel. The Administrative Agent shall have received a written opinion (addressed to the Administrative Agent and the Lenders and dated the Closing Date) from Shumaker, Loop & Kendrick, LLP, counsel to the Borrower, covering such matters relating to the Borrower and this Agreement as the Required Lenders shall reasonably request. The Borrower hereby requests such counsel to deliver such opinion.

(d) Financial Statements. The Administrative Agent and the Lenders shall have received copies of the Financial Statements referred to in Section 5.09, each in form and substance satisfactory to each of them.

(e) Responsible Officer Closing Certificate. A certificate signed by a Responsible Officer certifying (i) that the conditions specified in Section 4.02 have been satisfied, (ii) the current Ratings and (iii) that, as of the date of the last financial statements delivered pursuant to the Existing Credit Agreement, the Borrower was in compliance with the financial covenants contained in Section 6.09.

(f) Existing Loan Agreement. The Existing Loan Agreement shall have been terminated (except as to any provisions thereof that survive such termination) and all amounts owing thereunder, if any, shall have been paid in full.

(g) KYC. The Borrower shall have delivered to the Administrative Agent and each Lender such reasonable documentation and other information required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the Act, to the extent reasonably requested by the Administrative Agent or any Lender.

(h) Legal Matters. All legal matters incident to the initial Loans and if issued, the initial Letter of Credit, shall be satisfactory to counsel to the Administrative Agent.

(i) Loan Notice. The Administrative Agent shall have received a Loan Notice with respect to the Loans to be made on the Closing Date.

(j) Consents. The Administrative Agent shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals necessary in connection with the entering into of this Agreement have been obtained.

(k) Fees and Expenses. The Administrative Agent and the Lenders shall have received all fees and expenses, if any, owing pursuant to one or more written agreements including without limitation, this Agreement.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 4.02 Conditions to all Credit Extensions.

The obligation of each Lender and the L/C Issuer to honor any Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurodollar Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower contained in Article II, Article V or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the date of such Credit Extension (provided for purposes of this Section 4.02, the representations and warranties contained in Section 5.09(a), other than the penultimate sentence thereof, shall be deemed to refer to the most recent financial statements furnished pursuant to Sections 6.01(a) and 6.01(b)).

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the L/C Issuer or the Swingline Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) In the case of a Credit Extension to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Administrative Agent, the Required Lenders (in the case of any Loans to be denominated in an Alternative Currency) or the L/C Issuer (in the case of any Letter of Credit to be denominated in an Alternative Currency) would make it impracticable for such Credit Extension to be denominated in the relevant Alternative Currency.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurodollar Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

Section 5.01 Organization.

(a) Each of the Borrower and the Subsidiaries is duly organized and validly existing under the laws of its state of organization and has the power to own its assets and to transact the business in which it is presently engaged.

(b) Each of the Borrower and the Subsidiaries is in good standing in its state of organization and in each state in which the character of the properties owned or the business

transacted requires qualification, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 5.02 Power, Authority, Consents.

The Borrower has the power to execute, deliver and perform the Loan Documents to be executed by it. The Borrower has the power to request extensions of credit hereunder and has taken all necessary action, corporate or otherwise, to authorize the extensions of credit hereunder on the terms and conditions of this Agreement. The Borrower has taken all necessary action, corporate or otherwise, to authorize the execution, delivery and performance of the Loan Documents to be executed by it. No consent or approval of any Person (including, without limitation, any stockholder of the Borrower), no consent or approval of any landlord or mortgagee, no waiver of any Lien or right of distraint or other similar right and no consent, license, certificate of need, approval, authorization or declaration of any governmental authority, bureau or agency, is or will be required in connection with the execution, delivery or performance by the Borrower of, the extensions of credit under, or the validity or enforceability of, the Loan Documents, except as set forth on Schedule 5.02 hereto, each of which either has been duly and validly obtained on or prior to the date hereof and is now in full force and effect, or is designated on Schedule 5.02 as waived by the Required Lenders.

Section 5.03 No Violation of Law or Agreements.

The execution and delivery by the Borrower of each Loan Document to which it is a party, the performance by it thereunder and the extensions of credit hereunder, will not violate any provision of law and will not conflict with or result in a breach of any order, writ, injunction, ordinance, resolution, decree, or other similar document or instrument of any court or governmental authority, bureau or agency, domestic or foreign, or any certificate of incorporation or by-laws or other organizational document of the Borrower, or create (with or without the giving of notice or lapse of time, or both) a default under or breach of any agreement, bond, note or indenture to which the Borrower is a party, or by which the Borrower is bound or any of its properties or assets is affected, except for such defaults and breaches which in the aggregate could not have a Material Adverse Effect, or result in the imposition of any Lien of any nature whatsoever upon any of the properties or assets owned by or used in connection with the business of the Borrower.

Section 5.04 Due Execution, Validity, Enforceability.

This Agreement and each other Loan Document to which the Borrower is a party has been duly executed and delivered by the Borrower and each constitutes the valid and legally binding obligation of the Borrower, enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws, now or hereafter in effect, relating to or affecting the enforcement of creditors' rights generally and except that the remedy of specific performance and other equitable remedies are subject to judicial discretion.

Section 5.05 Title to Properties.

Each of the Borrower and the Subsidiaries has good and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary course of its business, except for such defects in title as could not, individually or in the aggregate, have a Material Adverse Effect.

Section 5.06 Judgments, Actions, Proceedings.

Except as set forth on Schedule 5.06 hereto, there are no actions, suits, proceedings (including, without limitation, any Environmental Proceeding), claims, investigations or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against or affecting the Borrower or any Subsidiary or against any of their properties or revenues that (a) affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) as to which there is a reasonable possibility of an adverse determination, and, if so adversely determined, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 No Defaults, Compliance With Laws.

Except as set forth on Schedule 5.07 hereto, none of the Borrower or any of the Subsidiaries is in default under any agreement, ordinance, resolution, decree, bond, note, indenture, order or judgment to which it is a party or by which it is bound, or any other agreement or other instrument by which any of the properties or assets owned by it or used in the conduct of its business is affected, which default could have a Material Adverse Effect. Each of the Borrower and the Subsidiaries has complied and is in compliance in all respects with all applicable laws, ordinances and regulations, resolutions, ordinances, decrees, executive orders, judgments and other similar documents and instruments of all courts and governmental authorities, bureaus and agencies, domestic and foreign, including, without limitation, all applicable provisions of the Americans with Disabilities Act (42 U.S.C. §12101-12213) and the regulations issued thereunder and all applicable Environmental Laws and Regulations, non-compliance with which could have a Material Adverse Effect.

Section 5.08 Burdensome Documents.

Except as set forth on Schedule 5.08 hereto, neither the Borrower nor any of the Subsidiaries is a party to or bound by, nor are any of the properties or assets owned by any of them used in the conduct of its businesses affected by, any agreement, ordinance, resolution, decree, bond, note, indenture, order or judgment, including, without limitation, any of the foregoing relating to any Environmental Liability, that materially and adversely affects their respective businesses, assets or conditions, financial or otherwise.

Section 5.09 Financial Statements; Projections.

(a) Each of the Financial Statements is complete and presents fairly the Consolidated financial position of the Borrower and its Subsidiaries as at its date and the Consolidated results of operations of the Borrower and its Subsidiaries for the fiscal year of the

Borrower ended on such date, and has been prepared in accordance with GAAP. Neither the Borrower nor any of the Subsidiaries has any material obligation, liability or commitment, direct or contingent (including, without limitation, any Environmental Liability), that is not reflected in the Financial Statements. There has been no material adverse change in the financial position or operations of the Borrower or any of the Subsidiaries since the date of the latest balance sheet included in the Financial Statements (the "Latest Balance Sheet"). The Borrower's fiscal year is the twelve-month period ending on December 31 in each year.

(b) The Projections have been prepared on the basis of the assumptions accompanying them and reflect as of the date thereof the Borrower's good faith projections, after reasonable analysis, of the matters set forth therein, based on such assumptions (it being understood that actual results may differ materially from projections).

Section 5.10 Tax Returns.

Each of the Borrower and the Subsidiaries has filed all federal, state and local tax returns required to be filed by it and has not failed to pay any taxes, or interest and penalties relating thereto, on or before the due dates thereof, except where such failure to file or failure to pay could not, individually or in the aggregate, have a Material Adverse Effect. Except to the extent that reserves therefor are reflected in the Financial Statements: (i) there are no material federal, state or local tax liabilities of the Borrower or any of the Subsidiaries, due or to become due for any tax year ended on or prior to the date of the Latest Balance Sheet relating to such entity, whether incurred in respect of or measured by the income of such entity, that are not properly reflected in the Latest Balance Sheet relating to such entity, and (ii) there are no material claims pending or, to the knowledge of the Borrower, proposed or threatened against the Borrower or any of the Subsidiaries for past federal, state or local taxes, except those, if any, as to which proper reserves are reflected in the Financial Statements.

Section 5.11 Intangible Assets.

Each of the Borrower and the Subsidiaries possesses all patents, trademarks, service marks, trade names, and copyrights, and rights with respect to the foregoing, necessary to conduct its business as now conducted and as proposed to be conducted, without any conflict with the patents, trademarks, service marks, trade names, and copyrights and rights with respect to the foregoing, of any other Person.

Section 5.12 Regulation U.

No part of the proceeds received by the Borrower from the Loans, and no Letter of Credit, will be used directly or indirectly for: (a) any purpose other than as set forth in Section 6.15, or (b) the purpose of purchasing or carrying, or for payment in full or in part of Indebtedness that was incurred for the purposes of purchasing or carrying, any "margin stock", as such term is defined in §221.3 of Regulation U of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II, Part 221.

Section 5.13 Name Changes, Mergers, Acquisitions.

Except as set forth on Schedule 5.13 hereto, the Borrower has not within the six-year period immediately preceding the date of this Agreement changed its name, been the surviving entity of a merger or consolidation, or, except in the ordinary course of business, acquired all or substantially all of the assets of any Person.

Section 5.14 Full Disclosure.

Neither the Financial Statements nor any certificate, opinion, or any other statement made or furnished in writing to the Administrative Agent or any Lender by or on behalf of the Borrower in connection with this Agreement or the transactions contemplated herein or pursuant hereto, contains any untrue statement of a material fact, or omits to state a material fact necessary in order to make the statements contained therein or herein not misleading, as of the date such statement was made. There is no fact known to the Borrower that has, or would in the now foreseeable future have, a Material Adverse Effect, which fact has not been set forth herein, in the Financial Statements, in filings with the Securities and Exchange Commission or in any certificate, opinion or other written statement so made or furnished to the Administrative Agent or the Lenders. Notwithstanding the foregoing, with respect to the Projections, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that actual results may differ materially from projections).

Section 5.15 Licenses and Approvals.

(a) Each of the Borrower and the Subsidiaries has all necessary licenses, permits and governmental authorizations, including, without limitation, licenses, permits and authorizations arising under or relating to Environmental Laws and Regulations, to own and operate its properties and to carry on its business as now conducted, the absence of which would have a Material Adverse Effect.

(b) To the best of the Borrower's knowledge, no violation exists of any applicable law pertaining to the ownership or operation of any Facility of the Borrower or any Operator that would have a reasonable likelihood of leading to revocation of any license necessary for the operation of such Facility.

Section 5.16 ERISA.

(a) Except as set forth on Schedule 5.16 hereto, no Employee Benefit Plan is maintained or has ever been maintained by the Borrower or any ERISA Affiliate, nor has the Borrower or any ERISA Affiliate ever contributed to a Multiemployer Plan.

(b) There are no agreements which will provide payments to any officer, employee, shareholder or highly compensated individual which will be "parachute payments" under 280G of the Code that are nondeductible to the Borrower and which will be subject to tax under Section 4999 of the Code for which the Borrower will have a material withholding liability.

Section 5.17 REIT Status.

The Borrower meets all requirements to qualify as a REIT.

Section 5.18 OFAC.

The Borrower is not located, organized or residing in any Designated Jurisdiction. Neither the Borrower, nor, to the knowledge of the Borrower, any of its Subsidiaries, (a) is currently the subject of any Sanctions, or (b) is or has been (within the previous five (5) years) engaged in any transaction with any Person who is now or was then the subject of Sanctions and who is located, organized or residing in any Designated Jurisdiction. To the knowledge of the Borrower, no Credit Extension, and none of the proceeds from any Credit Extension, has been used, directly or indirectly: (1) to lend, contribute or provide or has otherwise been made available to fund any activity or business in any Designated Jurisdiction, (2) to fund any activity or business of any Person located, organized or residing in any Designated Jurisdiction who is the subject of any Sanctions, or (3) in any other manner that will result, in each case, in any violation by any Person (including any Lender, any Arranger, the Administrative Agent, the L/C Issuer or the Swingline Lender) of any Sanctions.

ARTICLE VI

AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees that on the Closing Date and thereafter until the Facility Termination Date, the Borrower shall, and shall cause each of its Subsidiaries to:

Section 6.01 Financial Statements.

Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) **Annual Financial Statements.** Annually, as soon as available, but in any event within 90 days after the last day of each of its fiscal years, a Consolidated balance sheet of the Borrower and its Subsidiaries as at such last day of the fiscal year, and Consolidated statements of income and retained earnings and statements of cash flow, for such fiscal year, each prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail, and certified without qualification by a nationally recognized independent public accounting firm or by any other certified public accounting firm satisfactory to the Administrative Agent as fairly presenting the financial position and results of operations of the Borrower and its Subsidiaries as at and for the year ending on its date and as having been prepared in accordance with GAAP; provided, however, the Borrower may satisfy its obligations to deliver the financial statements described in this Section 6.01(a) by furnishing to the Lenders a copy of its annual report on Form 10-K in respect of such fiscal year together with the financial statements required to be attached thereto, provided the Borrower is required to file such annual report on Form 10-K with the Securities and Exchange Commission and such filing is actually made.

(b) **Quarterly Financial Statements.** As soon as available, but in any event within 45 days after the end of each of the Borrower's fiscal quarters, a Consolidated balance sheet of the Borrower and the Subsidiaries as of the last day of such quarter and Consolidated statements of income and retained earnings and statements of cash flow, for such quarter, and on a comparative basis figures for the corresponding date or period of the immediately preceding fiscal year, all in reasonable detail, each such statement to be certified in a certificate of the chief financial officer of the Borrower as accurately presenting the financial position and the results of operations of the Borrower and its Subsidiaries as at its date and for such quarter and as having been prepared in accordance with GAAP (subject to year-end audit adjustments); provided, however, the Borrower may satisfy its obligations to deliver the financial statements described in this Section 6.01(b) by furnishing to the Lenders a copy of its quarterly report on Form 10-Q in respect of such fiscal quarter together with the financial statements required to be attached thereto, provided the Borrower is required to file such quarterly report on Form 10-Q with the Securities and Exchange Commission and such filing is actually made.

(c) **Compliance Information.** Promptly after a written request therefor, such other financial data or information evidencing compliance with the requirements of this Agreement, the Notes and the other Loan Documents, as any Lender may reasonably request from time to time.

(d) **Compliance Certificate.** At the same time as it delivers the financial statements required under the provisions of Sections 6.01(a) and 6.01(b), a certificate of a Responsible Officer to the effect that no Default or Event of Default and that no default under any other agreement to which the Borrower is a party or by which it is bound, or by which, to the best knowledge of the Borrower, any of its properties or assets, taken as a whole, may be materially affected, and no event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default or default, exists, or, if such cannot be so certified, specifying in reasonable detail the exceptions, if any, to such statement. Such certificate shall be accompanied by a detailed calculation indicating compliance with the covenants contained in Sections 6.09, 7.01(f), 7.08(d), and 7.14 in the form annexed hereto as Exhibit C.

(e) **Business Plan and Projections.** Not later than February 15th in each year, copies of the Borrower's business plan and financial projections for the upcoming three (3) fiscal years (together with a copy in writing of the assumptions on which such business plan and projections were based), each certified by the Borrower's chief financial officer and illustrating the projected income statements, balance sheets and statements of changes in cash flow on a Consolidated basis.

(f) **Portfolio Information.** As soon as available but in any event not less than 45 days after the end of each fiscal quarter of the Borrower:

(i) a copy of the quarterly "HCN Supplemental Information" posted on the Borrower's website (which includes financial information relating to the Borrower's portfolio), or (ii) if such "HCN Supplemental Information" is not available, a report, with respect to the quarterly period immediately prior to the fiscal quarter for which such report is submitted, containing financial information with respect to the Borrower's portfolio in a form substantially similar to that set forth in the most recently posted "HCN Supplemental Information".

(ii) Such other information regarding the financial condition of the Operators as the Administrative Agent may from time to time reasonably request, subject to each of their agreement that all such information shall be and remain confidential and none of such information may be distributed to any other Person without the Borrower's prior consent.

(g) **Accountants' Reports.** Promptly upon receipt thereof, copies of all material reports submitted to the Borrower by its independent accountants in connection with any annual or interim audit of the books of the Borrower or its Subsidiaries made by such accountants which material reports are a necessary part of such annual or interim audit.

(h) **Copies of Documents.** Promptly upon their becoming available, copies of any: (i) financial statements, non-routine reports and notices (other than routine correspondence), any of which are of a material nature, requests for waivers and proxy statements, in each case, delivered by the Borrower or any of its Subsidiaries to any of their respective existing lending institutions or creditors; (ii) correspondence or notices received by the Borrower from any federal, state or local governmental authority that regulates the operations of the Borrower or any of its Subsidiaries, relating to an actual or threatened change or development that would be materially adverse to the Borrower or any Subsidiary; (iii) registration statements and any amendments and supplements thereto, and any regular and periodic reports, if any, filed by the Borrower or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission or any governmental authority succeeding to any or all of the functions of the said Commission; and (iv) at the request of the Administrative Agent, any appraisals received by the Borrower or any of its Subsidiaries with respect to the properties or assets of the Borrower or its Subsidiaries during the term of this Agreement.

(i) **Notices of Defaults.** Promptly, notice of the occurrence of any Default or Event of Default, or any event that would constitute or cause a Material Adverse Effect.

(j) **ERISA Notices and Requests.**

(i) Concurrently with such filing, a copy of each Form 5500 that is filed with respect to each Plan with the IRS; and

(ii) Promptly, upon their becoming available, copies of: (i) all correspondence with the PBGC, the Secretary of Labor or any representative of the Internal Revenue Service with respect to any Plan, relating to an actual or threatened change or development that would be materially adverse to the Borrower; (ii) all actuarial valuations received by the Borrower with respect to any Plan; and (iii) any notices of Plan termination filed by any Plan Administrator (as those terms are used in ERISA) with the PBGC and of any notices from the PBGC to the Borrower with respect to the intent of the PBGC to institute involuntary termination proceedings.

(k) **Additional Information.** Such other material additional information regarding the business, affairs and condition of the Borrower as the Administrative Agent may from time to time request, including, without limitation, as soon as available but in any event not less than 45 days after the end of each fiscal quarter of the Borrower, schedules, in form and

substance satisfactory to the Administrative Agent, with respect to the Borrower on a Consolidated basis, of recorded liabilities, unfunded commitments, contingent liabilities, any off balance sheet financings including synthetic lease transactions and sale-leaseback arrangements and other similar material items, in each case, covering such quarter.

Documents required to be delivered pursuant to Section 6.01(a), (b) or (h) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (a) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 1.01(a); or (b) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Borrower shall deliver paper copies of such documents to the Administrative Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Borrower shall notify the Administrative Agent and each Lender (by fax transmission or other electronic mail transmission) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (A) the Administrative Agent and/or an Affiliate thereof may, but shall not be obligated to, make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "Platform") and (B) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that so long as the Borrower is the issuer of any outstanding debt or Equity Interests that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (1) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (2) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, any Affiliate thereof, the Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (3) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side

Information;” and (4) the Administrative Agent and any Affiliate thereof and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials “PUBLIC”.

Section 6.02 Books and Records.

Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or its Subsidiaries, as the case may be.

Section 6.03 Inspections and Audits.

Permit the Administrative Agent to make or cause to be made (prior to an Event of Default, at the Lenders’ expense and after the occurrence of and during the continuance of an Event of Default, at the Borrower’ s expense), inspections and audits of any books, records and papers of the Borrower or any Subsidiary and to make extracts therefrom and copies thereof, or to make appraisals, inspections and examinations of any properties and facilities of the Borrower or any Subsidiary, on reasonable notice, at all such reasonable times and as often as any Lender may reasonably require, in order to assure that the Borrower is and will be in compliance with its obligations under the Loan Documents or to evaluate the investment in the then Aggregate Exposures. Notwithstanding the foregoing, the Borrower agrees that the Administrative Agent shall be permitted to conduct or cause to be conducted an annual field audit at the Borrower’ s expense.

Section 6.04 Maintenance and Repairs.

Cause to be maintained in good repair, working order and condition, subject to normal wear and tear, all material properties and assets from time to time owned by the Borrower or any Subsidiary and used in or necessary for the operation of its businesses, and make or cause to be made all reasonable repairs, replacements, additions and improvements thereto.

Section 6.05 Continuance of Business.

Do, or cause to be done, all things reasonably necessary to preserve and keep in full force and effect the corporate existence of the Borrower or any Subsidiary and all permits, rights and privileges necessary for the proper conduct of its business, and continue to engage in the same line of business and comply in all material respects with all applicable laws, regulations and orders.

Section 6.06 Copies of Corporate Documents.

Subject to the prohibitions set forth in Section 7.06, promptly deliver to the Administrative Agent copies of any amendments or modifications to the certificate of incorporation (or other applicable organizational documents) and by-laws of the Borrower or any Subsidiary, certified with respect to the certificate of incorporation (or other organizational

documents) by the Secretary of State of its state of incorporation and, with respect to the by-laws, by the secretary or assistant secretary of such corporation.

Section 6.07 Perform Obligations.

Pay and discharge all of the obligations and liabilities of the Borrower or any Subsidiary, including, without limitation, all taxes, assessments and governmental charges upon its income and properties when due, unless and to the extent only that such obligations, liabilities, taxes, assessments and governmental charges shall be contested in good faith and by appropriate proceedings and that, to the extent required by GAAP, proper and adequate book reserves relating thereto are established by the Borrower or any Subsidiary, and then only to the extent that a bond is filed in cases where the filing of a bond is necessary to avoid the creation of a Lien against any of its properties.

Section 6.08 Notice of Litigation.

Promptly notify the Administrative Agent (which shall promptly notify each of the Lenders) in writing of any litigation, legal proceeding or dispute, other than disputes in the ordinary course of business or, whether or not in the ordinary course of business, involving amounts in excess of \$2,500,000, affecting the Borrower or any Subsidiary whether or not fully covered by insurance, and regardless of the subject matter thereof (excluding, however, any actions relating to workers' compensation claims or negligence claims relating to use of motor vehicles, if fully covered by insurance, subject to deductibles).

Section 6.09 Financial Covenants.

Have or maintain, with respect to the Borrower, on a Consolidated basis, as at the last day of each fiscal quarter of the Borrower:

(a) a ratio of Funded Indebtedness to the sum of (x) Tangible Net Worth, plus (y) Funded Indebtedness (the "Leverage Ratio") of not more than 0.60:1.00; provided, however, from and after the consummation of a Significant Acquisition, so long as no Default or Event of Default shall then exist or would exist after giving effect to such Significant Acquisition, the Leverage Ratio may be increased to not more than 0.65:1.00 for the full fiscal quarter in which such Significant Acquisition is consummated and the two consecutive full fiscal quarters immediately succeeding such fiscal quarter.

(b) Tangible Net Worth of not less than \$7,500,000,000.

(c) a Fixed Charge Coverage of not less than 150%.

(d) a ratio of unsecured Indebtedness to Unencumbered Assets of not more than 0.60 to 1.00; provided, however, from and after the consummation of a Significant Acquisition, so long as no Default or Event of Default shall then exist or would exist after giving effect to such Significant Acquisition, such ratio may be increased to not more than 0.65:1.00 for the full fiscal quarter in which such Significant Acquisition is consummated and the two consecutive full fiscal quarters immediately succeeding such fiscal quarter.

Section 6.10 Insurance.

(a) (i) Maintain or cause to be maintained with responsible insurance companies reasonably acceptable to the Administrative Agent such insurance on the properties of the Borrower or any Subsidiary, in such amounts and against such risks as is customarily maintained by similar businesses and cause each Operator to do so; (ii) file with the Administrative Agent upon its request a detailed list of the insurance then in effect, stating the names of the insurance companies, the amounts and rates of the insurance, the dates of the expiration thereof and the properties and risks covered thereby; and (iii) within 10 days after notice in writing from the Administrative Agent, obtain such additional insurance as the Administrative Agent may reasonably request; and

(b) Carry all insurance available through the PBGC or any private insurance companies covering its obligations to the PBGC.

Section 6.11 Notice of Certain Events.

(a) Promptly notify the Administrative Agent in writing of the occurrence of any Reportable Event, as defined in Section 4043 of ERISA, if a notice of such Reportable Event is required under ERISA to be delivered to the PBGC within 30 days after the occurrence thereof, together with a description of such Reportable Event and a statement of the action the Borrower or the applicable ERISA Affiliate intends to take with respect thereto, together with a copy of the notice thereof given to the PBGC.

(b) Promptly notify the Administrative Agent in writing if the Borrower or an ERISA Affiliate receives an assessment of withdrawal liability in connection with a complete or partial withdrawal with respect to any Multiemployer Plan, together with a statement of the action that the Borrower or such ERISA Affiliate intends to take with respect thereto.

(c) Promptly notify the Administrative Agent in writing if the Borrower receives: (i) any notice of any violation or administrative or judicial complaint or order having been filed or about to be filed against the Borrower alleging violations of any Environmental Law and Regulation, or (ii) any notice from any governmental body or any other Person alleging that the Borrower is or may be subject to any Environmental Liability; and promptly upon receipt thereof, provide the Administrative Agent with a copy of such notice together with a statement of the action the Borrower intends to take with respect thereto.

Section 6.12 Comply with ERISA.

Comply with all applicable provisions of ERISA and the Code now or hereafter in effect, the failure to comply with which would cause a Material Adverse Effect.

Section 6.13 Environmental Compliance.

Operate or cause to be operated all property owned, operated or leased by the Borrower and the Subsidiaries in compliance with all Environmental Laws and Regulations, such that no Environmental Liability arises under any Environmental Laws and Regulations, which would result in a Lien on any property of any of them.

Section 6.14 Maintenance of REIT Status; Listing on National Securities Exchange.

Maintain its status as a REIT, operate its business at all times so as to satisfy all requirements necessary to qualify and maintain the Borrower's qualification as a real estate investment trust under Sections 856 through 860 of the Code and continue to list the common stock of the Borrower for trading on a U.S. national securities exchange. Furthermore, the Borrower will maintain adequate records so as to comply with all record-keeping requirements relating to its qualification as a real estate investment trust as required by the Code and applicable regulations of the Department of the Treasury promulgated thereunder and will properly prepare and timely file with the Internal Revenue Service all returns and reports required thereby.

Section 6.15 Use of Proceeds.

The proceeds of the Loans hereunder may be used by the Borrower as follows: (a) for the repayment in full of the outstanding amounts owed under the Existing Loan Agreement, (b) to acquire, directly or indirectly, Health Care Facilities and real estate, whether developed or undeveloped, (c) to extend or acquire loans secured by Mortgages, (d) to finance Construction Investments or for capital improvements to a Health Care Facility or real estate previously financed or owned by the Borrower or a Subsidiary, (e) for investments that are not prohibited under Section 7.08, (f) for the repayment or refinance of other outstanding Indebtedness of the Borrower, and (g) for working capital and general corporate purposes.

ARTICLE VII

NEGATIVE COVENANTS

The Borrower hereby covenants and agrees that on the Closing Date and thereafter until the Facility Termination Date, it shall not, nor shall it permit any Subsidiary to, directly or indirectly:

Section 7.01 Indebtedness.

Create, incur, permit to exist or have outstanding any Indebtedness, except:

(a) Indebtedness created hereunder;

(b) Taxes, assessments and governmental charges, non-interest bearing accounts payable and accrued liabilities, in any case not more than 90 days past due from the original due date thereof (unless the failure to satisfy such obligations is pursuant to a good faith contest by appropriate dispute or other proceedings as set forth in Section 6.06), and non-interest bearing deferred liabilities other than for borrowed money (e.g., deferred compensation and deferred taxes), in each case incurred and continuing in the ordinary course of business;

(c) Indebtedness secured by the security interests referred to in Section 7.02(b);

(d) Intentionally Omitted;

(e) Unsecured Indebtedness;

(f) In addition to the Indebtedness otherwise permitted under this Section 7.01, Indebtedness secured by Liens (other than Permitted Liens) provided that (x) no Default or Event of Default then exists, and (y) immediately after giving effect to the incurrence of such Indebtedness, (i) no Default or Event of Default will occur, and (ii) the total outstanding amount of such Indebtedness of the Borrower, on a Consolidated basis, plus the total outstanding amount of Indebtedness permitted under Section 7.01(c), does not exceed 30% of Consolidated Total Assets as of any date of determination thereof; and

(g) As set forth on Schedule 7.01 hereto.

Section 7.02 Liens.

Create, or assume or permit to exist, any Lien on any of the properties or assets of the Borrower or any of its Subsidiaries, whether now owned or hereafter acquired, except:

(a) Permitted Liens;

(b) Purchase money Liens on property acquired or held by the Borrower or its Subsidiaries in the ordinary course of business, securing Indebtedness incurred or assumed for the purpose of financing all or any part of the cost of acquiring such property; provided that (i) any such Lien attaches to such property concurrently with or within 20 days after the acquisition thereof, (ii) such Lien attaches solely to the property so acquired in such transaction, (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such property, and (iv) the aggregate amount of all such Indebtedness on a Consolidated basis for the Borrower and its Subsidiaries shall not at any time exceed \$20,000,000.00;

(c) Liens securing Indebtedness created after the Closing Date and permitted under Section 7.01(f); and

(d) As set forth on Schedule 7.02 hereto.

Section 7.03 Intentionally Omitted.

Section 7.04 Mergers, Acquisitions.

Merge or consolidate with any Person, or acquire all or substantially all of the assets or any of the capital stock or other equity interests of any Person, unless (a) immediately after giving effect thereto, the Borrower is the surviving entity or the merger or consolidation is a Merger with No Actual Change in Control, (b) no Default or Event of Default exists or will occur after giving effect thereto, and (c) the approval of the stockholders of the Borrower is not

required under Section 312.03(c) of the New York Stock Exchange' s Listed Company Manual or any successor provision of such manual.

Section 7.05 Distributions.

Declare or pay any dividends or make any distribution of any kind on the Borrower' s outstanding stock, or set aside any sum for any such purpose, except that:

(a) the Borrower may declare and make dividend payments or other distributions payable solely in its common stock;

(b) the Borrower may declare and pay cash dividends if, and only if at the time of such payment and after giving effect thereto, no Event of Default shall exist hereunder; and

(c) if a Default or an Event of Default exists or will occur as a result of the dividend payment, the Borrower may declare and pay dividends to the minimum extent necessary (taking into account any dividends or distributions otherwise made including under Section 7.05(b)) to generate the minimum deduction for dividends paid during each year that would be required to satisfy Section 857(a)(1) of the Code.

Section 7.06 Changes in Structure.

Amend, supplement or modify the certificate of incorporation or by-laws (or other applicable organizational documents) of the Borrower or any Subsidiary in a manner which would be reasonably likely to cause a Material Adverse Effect.

Section 7.07 Disposition of Assets.

Make any Disposition of all or substantially all of the Property held by the Borrower and its Subsidiaries, taken as a whole, or enter into any agreement to do so, unless at the time of the Disposition and after giving effect thereto, no Default or Event of Default exists and if such Disposition is among the Borrower and its Subsidiaries.

Section 7.08 Investments.

Make, or suffer to exist, any Investment in any Person, including, without limitation, any shareholder, director, officer or employee of the Borrower or any of its Subsidiaries, except:

(a) Investments in:

(A) direct obligations of the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America, provided that any such obligations shall mature within one year of the date of issuance thereof;

(B) commercial paper rated at least P-1 by Moody' s and at least A-1 by S&P maturing within one year of the date of issuance thereof;

(C) certificates of deposit issued by any Lender or by any United States commercial bank having capital and surplus of not less than \$500,000,000 which have a maturity of one year or less;

(D) repurchase obligations with a term of not more than 7 days for underlying securities of the types described in subsection (i) above entered into with any bank meeting the qualifications specified in subsection (iii) above, provided all such agreements require physical delivery of the securities securing such repurchase agreement, except those delivered through the Federal Reserve Book Entry System; and

(E) money market funds that invest solely, and which are restricted by their respective charters to invest solely, in investments of the type described in the immediately preceding subsections (i), (ii), (iii), and (iv).

(b) Investments by the Borrower in any Subsidiary, and by any Subsidiary in the Borrower or another Subsidiary.

(c) The acquisition by the Borrower and its Subsidiaries, on a Consolidated basis, of Health Care Facilities and Mortgages and any real estate, whether developed or undeveloped, and subject to Section 7.08(d), Investments in Operators in the ordinary course of business.

(d) Investments not otherwise permitted by this Agreement in any Person provided that the aggregate Cash portion of all such Investments does not exceed an amount equal to 25% of Consolidated Total Assets as at any date of determination thereof, prior to giving effect to any such Investment.

Section 7.09 Fiscal Year.

Change its fiscal year.

Section 7.10 ERISA Obligations.

Permit the establishment of any Employee Benefit Plan or amend any Employee Benefit Plan which establishment or amendment could result in liability to the Borrower or increase the obligation for post-retirement welfare benefits of the Borrower which liability or increase, individually or together with all similar liabilities and increases, has a Material Adverse Effect.

Section 7.11 Intentionally Omitted.

Section 7.12 Transactions with Affiliates.

Except as expressly permitted by this Agreement, directly or indirectly enter into any transaction of any kind with any Affiliate of the Borrower (other than a Subsidiary), whether or not in the ordinary course of business, except (i) transactions on fair and reasonable terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate or (ii) payments of compensation, perquisites and fringe benefits arising

out of any employment or consulting relationship in the ordinary course of business, (iii) payments permitted by Section 7.05, or (iv) transactions between or among the Borrower and any wholly-owned Subsidiary.

Section 7.13 Hazardous Material.

Cause or permit: (i) any Hazardous Material to be placed, held, located or disposed of on, under or at any Facility or any part thereof, except for such Hazardous Materials that are necessary for the Borrower' s or any Subsidiary' s or any Operator' s operation of its business thereon and which shall be used, stored, treated and disposed of in compliance with all applicable Environmental Laws and Regulations or (ii) such Facility or any part thereof to be used as a collection, storage, treatment or disposal site for any Hazardous Material. The Borrower and each Subsidiary acknowledges and agrees that the Administrative Agent and the Lenders shall have no liability or responsibility for either:

(A) damage, loss or injury to human health, the environment or natural resources caused by the presence, disposal, release or threatened release of Hazardous Materials on any part of such Facility; or

(B) abatement and/or clean-up required under any applicable Environmental Laws and Regulations for a release, threatened release or disposal of any Hazardous Materials located at any Facility or used by or in connection with the Borrower' s or any Subsidiary' s or any Operator' s business.

Section 7.14 Construction Investments.

Permit the outstanding principal amount, accrued interest on and related fees in connection with its Construction Investments to exceed an amount equal to 35% of Consolidated Total Assets; provided, the Borrower shall not make a Construction Investment for a Facility unless (i) there is included in the terms thereof an agreement for the conversion of the Borrower' s interests in such Facility upon the completion thereof into full ownership or a mortgage interest, and (ii) if a mortgage interest, the Borrower shall retain a first Lien on such Facility.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default.

Any of the following shall constitute an "Event of Default":

(a) Payments. Failure by the Borrower to make, in the currency required hereunder, (i) when and as required to be paid herein, any payment or mandatory prepayment of principal of any Loan or any reimbursement obligation in respect of any Letter of Credit or (ii) within three (3) Business Days after the same becomes due, interest on any Loan or any reimbursement obligation in respect of any Letter of Credit or (iii) to make any payment of any Fee or any other amount payable hereunder; or

(b) Certain Covenants. Failure by the Borrower to perform or observe any of the agreements of the Borrower contained in Section 6.01(i), Section 6.09 or Article VII; or

(c) Other Covenants. Failure by the Borrower to perform or observe any other term, condition or covenant of this Agreement or of any of the other Loan Documents to which it is a party, which shall remain unremedied for a period of 30 days (or 60 days if such failure is susceptible of being remedied within 60 days and the Borrower or its Subsidiaries, as applicable, are diligently proceeding to remedy such failure) after notice thereof shall have been given to the Borrower by the Administrative Agent; or

(d) Cross Defaults. (i) The Borrower or any of its Subsidiaries (after giving effect to any notice or grace periods applicable thereto) (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder and Indebtedness under Swap Contracts) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness or Guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which failure to observe or perform or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or Cash Collateral in respect thereof to be demanded, provided, that clauses (A) and (B) shall not apply (1) with respect to Nonrecourse Indebtedness which individually or in the aggregate, has a principal amount (including, without duplication, undrawn committed or available amounts and amounts owing to all creditors under any combined or syndicated credit arrangement) in excess of the Threshold Amount, if the Borrower or such Subsidiary is contesting, in good faith, that such Nonrecourse Indebtedness has been validly declared due and payable pursuant to the terms thereof or (2) to secured Indebtedness that becomes due and payable as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any of its Subsidiaries is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Borrower or any of its Subsidiaries is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(e) Representations and Warranties. Any representation or warranty made in writing or deemed made (pursuant to Section 4.02) to the Lenders or the Administrative Agent in any of the Loan Documents or in connection with the making of the Loans, or any certificate, statement or report made or delivered in compliance with this Agreement, shall have been false or misleading in any material respect when made, deemed made or delivered; or

(f) Bankruptcy.

(i) The Borrower shall make an assignment for the benefit of creditors, file a petition in bankruptcy, be adjudicated insolvent, petition or apply to any tribunal for the appointment of a receiver, custodian, or any trustee for it or a substantial part of its assets, or shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or the Borrower shall take any corporate action to authorize any of the foregoing actions; or there shall have been filed any such petition or application, or any such proceeding shall have been commenced against it, that remains undismissed for a period of 60 days or more; or any order for relief shall be entered in any such proceeding; or the Borrower by any act or omission shall indicate its consent to, approval of or acquiescence in any such petition, application or proceeding or the appointment of a custodian, receiver or any trustee for it or any substantial part of its properties, or shall suffer any custodianship, receivership or trusteeship to continue undischarged for a period of 30 days or more; or

(ii) The Borrower shall generally not pay its debts as such debts become due; or

(iii) The Borrower shall have concealed, removed, or permitted to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them or made or suffered a transfer of any of its property that may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or shall have made any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall have suffered or permitted, while insolvent, any creditor to obtain a Lien upon any of its property through legal proceedings or distraint that is not vacated within 30 days from the date thereof; or

(g) Judgments. There is entered against the Borrower or any of its Subsidiaries (i) a final judgment or order that has not been discharged for the payment of money in an aggregate amount exceeding \$100,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any one or more non-monetary final judgments that have not been discharged and that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(h) ERISA.

(i) The termination of any Plan or the institution by the PBGC of proceedings for the involuntary termination of any Plan, in either case, by reason of, or that results or could result in, a “material accumulated funding deficiency” under Section 412 of the Code; or

(ii) Failure by the Borrower or any Subsidiary to make required contributions, in accordance with the applicable provisions of ERISA, to each of the Plans hereafter established or assumed by it; or

(i) Material Adverse Effect. There shall occur a Material Adverse Effect; or

(j) Ownership. (i) Any Person, or a group of related Persons, shall acquire, except in the case of a Merger with No Actual Change in Control, (A) beneficial ownership in excess of 25% of the outstanding stock of the Borrower or other voting interest having ordinary voting powers to elect a majority of the directors, managers or trustees of the Borrower (irrespective of whether at such time stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency), or (B) all or substantially all of the Investments of the Borrower, or (ii) a majority of the Board of Directors of the Borrower, at any time, shall be composed of Persons other than (A) Persons who were members of the Board of Directors on the date of this Agreement, or (B) Persons who subsequently become members of the Board of Directors and who either (1) are appointed or recommended for election with the affirmative vote of a majority of the directors in office as of the date of this Agreement, or (2) are appointed or recommended for election with the affirmative vote of a majority of the Board of Directors of the Borrower then in office; or

(k) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all Obligations arising under the Loan Documents, ceases to be in full force and effect; or the Borrower or any other Person contests in any manner the validity or enforceability of any material provision of any Loan Document; or the Borrower or any other Person denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any material provision of any Loan Document.

Without limiting the provisions of Article IX, if a Default or an Event of Default shall have occurred, then such Default or Event of Default will continue to exist until it either is cured (to the extent specifically permitted) in accordance with the Loan Documents or is otherwise expressly waived by the requisite Appropriate Lenders (in their sole discretion) or the Administrative Agent (with the approval of requisite Appropriate Lenders (in their sole discretion)) as determined in accordance with Section 10.01.

Section 8.02 Remedies upon Event of Default.

If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) declare the Commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any

other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and

(d) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents or applicable Law or equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

Section 8.03 Application of Funds.

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02) or if at any time insufficient funds are received by and available to the Administrative Agent to pay fully all Obligations then due hereunder, any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.14 and 2.15, be applied in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer arising under the Loan Documents and amounts payable under Article III, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations arising under the Loan Documents, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.14; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.14, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE IX

ADMINISTRATIVE AGENT

Section 9.01 Appointment and Authority.

Each of the Lenders and the L/C Issuer hereby irrevocably appoints, designates and authorizes KeyBank National Association to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and the Borrower shall not have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 9.02 Rights as a Lender.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with the Borrower or any Subsidiary or other Affiliate

thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or, except as required hereby, consent of the Lenders with respect thereto.

Section 9.03 Exculpatory Provisions.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and its Related Parties:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Administrative Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary), or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. Any such action taken or failure to act pursuant to the foregoing shall be binding on all Lenders. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or the L/C Issuer.

Neither the Administrative Agent nor any of its Related Parties has any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or

thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by any Loan Document, (v) the value or the sufficiency of any collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 9.04 Reliance by Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objections.

Section 9.05 Delegation of Duties.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facilities as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 9.06 Resignation of Administrative Agent.

(a) Notice. The Administrative Agent may at any time resign as Administrative Agent upon thirty (30) days' notice to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower (provided no such consultation shall be required if an Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment prior to the effective date of the resignation that the Administrative Agent gives (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective.

(b) Effect of Resignation. With effect from the Resignation Effective Date (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring Administrative Agent as of the Resignation Effective Date), and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

(c) L/C Issuer and Swingline Lender. Any resignation by KeyBank National Association as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swingline Lender. If KeyBank National Association resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base

Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If KeyBank National Association resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the appointment by the Borrower of a successor L/C Issuer or Swingline Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swingline Lender, as applicable, (ii) the retiring L/C Issuer and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to KeyBank National Association to effectively assume the obligations of KeyBank National Association with respect to such Letters of Credit.

Section 9.07 Non-Reliance on Administrative Agent and Other Lenders.

Each Lender, and the L/C Issuer, acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 9.08 No Other Duties, Etc.

Anything herein to the contrary notwithstanding, none of the Persons having any of the titles listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, an Arranger, a Lender or the L/C Issuer hereunder.

Section 9.09 Administrative Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to the Borrower, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and L/C Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the

Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(h) and (i), 2.09, and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the rights of any Lender or the L/C Issuer or to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer or in any such proceeding.

ARTICLE X

MISCELLANEOUS

Section 10.01 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender (it being understood and agreed that a waiver of any condition precedent in Section 4.02 or of any Default or a mandatory reduction in Commitments is not considered an extension or increase in Commitments of any Lender);

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment (excluding mandatory prepayments) of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under such other Loan Document without the written consent of each Lender entitled to such payment;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document or change the form or currency of payment, without the written consent of each Lender entitled to such amount or directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of “Default Rate” or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;

(d) change Section 8.03 or Section 2.13 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;

(e) change any provision of this Section 10.01 or the definition of “Required Lenders” or any other provision of any Loan Document specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or thereunder or make any determination or grant any consent hereunder or thereunder, without the written consent of each Lender;

(f) release the Borrower or permit the Borrower to assign or transfer any of its rights or obligations under this Agreement or the other Loan Documents without the written consent of each Lender; or

(g) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of the Required Lenders under such Facility;

and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swingline Lender in addition to the Lenders required above, affect the rights or duties of the Swingline Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) any fee letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, (A) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender, or all Lenders or each affected Lender under a Facility, may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (1) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (2) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender, or all Lenders or each affected Lender under a Facility, that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such

Defaulting Lender; (B) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (C) the Required Lenders shall determine whether or not to allow the Borrower to use Cash Collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

Notwithstanding anything to the contrary herein the Administrative Agent may, with notice to the Lenders and the prior written consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

If any Lender does not consent to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

Section 10.02 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or other electronic mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, the L/C Issuer or the Swingline Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 1.01(a); and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission or other electronic mail transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including electronic mail address and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Swingline Lender, the L/C Issuer or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an electronic mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return electronic mail address or other written acknowledgement) and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its electronic mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet.

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the L/C Issuer and the Swingline Lender may change its address, facsimile number or telephone number or electronic mail address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile number or telephone number or electronic mail address for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number,

facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one (1) individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States federal or state securities laws.

(e) **Reliance by Administrative Agent, L/C Issuer and Lenders.** The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Loan Notices, Letter of Credit Applications and Swingline Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03 No Waiver; Cumulative Remedies; Enforcement.

No failure by any Lender, the L/C Issuer or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document 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, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuer; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of

claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the L/C Issuer), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Arranger, each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or

prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of the Borrower's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. Without limiting the provisions of Section 3.01(c), this Section 10.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer, the Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Borrower shall not assert, and the Borrower hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 10.02(e) shall survive the resignation of the Administrative Agent, the L/C Issuer and the

Swingline Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 10.05 Payments Set Aside.

To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 10.06 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each of the Lenders and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment, or grant of a security interest, subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment(s) and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swingline Loans) at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the 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 or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Facility or the Term Facility, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents with respect to the Loans and/or the Commitment assigned, except that this clause (ii) shall not apply to the Swingline Lender's rights and obligations in respect of Swingline Loans.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to an Affiliate of the assigning Lender or an Approved Fund of the assigning Lender; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; and provided, further, that the Borrower's consent shall not be required during the primary syndication of the Facilities;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (1) any unfunded Term Commitment or any Revolving Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender or (2) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund of a Lender; and

(C) the consent of the L/C Issuer and the Swingline Lender shall be required for any assignment in respect of the a Revolving Commitment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) a natural Person.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by such Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the L/C Issuer or any Lender hereunder (and interest accrued thereon) and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement 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 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register in which it shall record the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) 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, absent manifest error, 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. 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.

(d) Participations. Any Lender may at any time, without the consent of, but with notice to, the Borrower and the Administrative Agent, sell participations to any Person (other than a natural Person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitments and/or the Loans (including such Lender's participations in L/C Obligations and/or Swingline Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participations.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of a Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to

effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 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 the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign, or grant a security interest in, all or any portion of its rights under this Agreement (including under its Note or Notes, if any) to secure obligations of such Lender, including any pledge or assignment, or grant of a security interest, to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment, or grant of a security interest, shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee or grantee for such Lender as a party hereto.

(f) Resignation as L/C Issuer or Swingline Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time KeyBank National Association assigns all of its Revolving Commitment and Revolving Loans pursuant to subsection (b) above, KeyBank National Association may, (i) upon thirty (30) days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) upon thirty (30) days' notice to the Borrower, resign as Swingline Lender. In the event of any such resignation as L/C Issuer or Swingline Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swingline Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of KeyBank National Association as L/C Issuer or Swingline Lender, as the case may be. If KeyBank National Association resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If KeyBank National Association resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swingline Lender, (A) such successor shall succeed to and become vested with all of the rights, powers,

privileges and duties of the retiring L/C Issuer or Swingline Lender, as the case may be and (B) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to KeyBank National Association to effectively assume the obligations of KeyBank National Association with respect to such Letters of Credit whereupon such substitute letters of credit or other arrangements shall be deemed to be, and the Letters of Credit issued by the retiring L/C Issuer shall cease to be, Letters of Credit hereunder.

Section 10.07 Treatment of Certain Information: Confidentiality.

(a) Treatment of Certain Information. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party hereto, (v) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.16 or 2.17 or (B) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (vii) on a confidential basis to (A) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (B) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (viii) with the consent of the Borrower or to the extent such Information (1) becomes publicly available other than as a result of a breach of this Section or (2) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) Non-Public Information. Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (i) the Information may include material non-public information concerning the Borrower or any of its Subsidiaries, as the case may be, (ii) it has developed compliance procedures regarding the use of material non-public information and (iii) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

(c) Press Releases. The Borrower and its Affiliates agree that they will not in the future issue any press releases using the name of the Administrative Agent or any Lender or their respective Affiliates or referring to this Agreement or any of the other Loan Documents without the prior written consent of the Administrative Agent or such Lender, not to be unreasonably withheld, unless (and only to the extent that) the Borrower or such Affiliate is required to do so under law and then, in any event the Borrower or such Affiliate will consult with such Person before issuing such press release.

(d) Customary Advertising Material. The Administrative Agent and the Lenders agree that they will not use the name, product photographs, logo or trademark of the Borrower for any advertising material relating to the transactions contemplated hereby without the prior written consent of the Borrower, not to be unreasonably withheld.

Section 10.08 Right of Setoff.

If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, the L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured, secured or unsecured, or are owed to a branch, office or Affiliate of such Lender or the L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.15 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuer and the Lenders. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.09 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 10.10 Counterparts; Integration; Effectiveness.

This Agreement and each of the other Loan Documents may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or the L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement or any other Loan Document, or any certificate delivered thereunder, by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of an originally executed counterpart of this Agreement. Without limiting the foregoing, to the extent an originally executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such fax transmission or electronic mail transmission shall be promptly followed by such originally executed counterpart.

Section 10.11 Survival of Representations and Warranties.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 10.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuer or the Swingline Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 10.13 Replacement of Lenders.

If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender or if any other circumstance exists hereunder that gives the Borrower the right to replace a Lender as a party hereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to 100% of the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER AT LAW OR IN EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, THE L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT

PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 10.15 Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.16 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent and any Affiliate thereof, the Arrangers and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent and, as applicable, its Affiliates and the Lenders and their Affiliates (collectively, solely for purposes of this Section, the "Lenders"), on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Administrative Agent and its Affiliates and each Lender each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for Borrower or any of its Affiliates, or any other Person and (ii) neither the Administrative Agent, any of its Affiliates nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent and its Affiliates and the Lenders may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, any of its Affiliates nor

any Lender has any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, any of its Affiliates or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 10.17 Electronic Execution of Assignments and Certain Other Documents.

The words “execute,” “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 10.18 Automatic Alternative Currency Conversion.

If an Automatic Alternative Currency Conversion Trigger shall occur, the Outstanding Amount of all Revolving Loans denominated in an Alternative Currency and the Outstanding Amount of all Letters of Credit denominated in an Alternative Currency shall, automatically and with no further action required, be converted into the Dollar Equivalent of such amounts, determined by the Administrative Agent or the L/C Issuer, as the case may be, on the basis of the Spot Rate determined on the Automatic Alternative Currency Conversion Date, and on and after such date all amounts accruing and owed to the Lenders in respect of the Outstanding Amount of such Revolving Loans and such Letters of Credit shall accrue and be payable in Dollars at the rate otherwise applicable hereunder.

Section 10.19 Judgment Currency.

If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent, the L/C Issuer or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any

Lender from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent, the L/C Issuer or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent, the L/C Issuer or such Lender in such currency, the Administrative Agent, the L/C Issuer or such Lender, as the case may be, agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law). All of the Borrower's obligations under this Section 10.19 shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

Section 10.20 USA PATRIOT Act Notice.

Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any 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 "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 or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act. The Borrower agrees to, promptly following a request by the Administrative Agent or any Lender, provide all such other documentation and information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

Section 10.21 Termination of Existing Loan Agreement.

On the Closing Date, the Existing Loan Agreement is hereby terminated except for such provisions, if any, that are specified in the Existing Loan Agreement as surviving the termination thereof, which provisions shall as so specified, survive and remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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

BORROWER:

HEALTH CARE REIT, INC.

By: /s/ Michael A. Crabtree

Name: Michael A. Crabtree

Title: Senior Vice President and Treasurer

**KEYBANK NATIONAL ASSOCIATION,
as Administrative Agent, as Swingline
Lender, as the LC Issuer and as a Lender**

By: /s/ Laura Conway

Name: Laura Conway

Title: Vice President

Bank of America, N.A.

By: /s/ Amie L. Edwards

Name: Amie L. Edwards

Title: Director

Health Care REIT, Inc. Credit Agreement Signature Page

JPMORGAN CHASE BANK, N.A.

By: /s/ Mark Costantino

Name: Mark Costantino

Title: Executive Director

Health Care REIT, Inc. Credit Agreement Signature Page

DEUTSCHE BANK AG NEW YORK BRANCH

By: /s/ Ming K. Chu

Name: Ming K. Chu

By: /s/ Ming K. Chu

By: /s/ Virginia Cosenza

Name: Virginia Cosenza

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

BARCLAYS BANK PLC

By: /s/ Noam Azachi

Name: Noam Azachi

Title: Authorized Signatory

Health Care REIT, Inc. Credit Agreement Signature Page

Credit Agricole Corporate and Investment Bank

By: /s/ Amy Trapp

Name: Amy Trapp

Title: Managing Director

By: /s/ Tanya Crossley

Name: Tanya Crossley

Title: Managing Director

Health Care REIT, Inc. Credit Agreement Signature Page

UBS AG, STAMFORD BRANCH

By: /s/ Lana Gifas

Name: Lana Gifas

Title: Director

By: /s/ Joselin Fernandes

Name: Joselin Fernandes

Title: Associate Director

Health Care REIT, Inc. Credit Agreement Signature Page

**WELLS FARGO BANK, NATIONAL
ASSOCIATION**

By: /s/ Andrea S. Chen _____

Name: Andrea S. Chen

Title: Director

Health Care REIT, Inc. Credit Agreement Signature Page

CITIBANK, N.A.

By: /s/ John C. Rowland

Name: John C. Rowland

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

ROYAL BANK OF CANADA

By: /s/ Joshua Freedman

Name: Joshua Freedman

Title: Authorized Signatory

Health Care REIT, Inc. Credit Agreement Signature Page

SUNTRUST BANK

By: /s/ Joshua Turner _____

Name: Joshua Turner

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

Fifth Third Bank, an Ohio Banking Corporation

By: /s/ Megan R. Brearey _____

Name: Megan R. Brearey

Title: Assistant Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

COMPASS BANK

By: /s/ Brian Tuerff

Name: Brian Tuerff

Title: Senior Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

CREDIT SUISSE AG, CAYMAN ISLANDS

BRANCH

By: /s/ Bill O' Daly

Name: Bill O' Daly

Title: Director

By: /s/ Michael D' Onofrio

Name: Michael D' Onofrio

Title: Associate

Health Care REIT, Inc. Credit Agreement Signature Page

PNC BANK, NATIONAL ASSOCIATION

By: /s/ Kirby R. Holman _____

Name: Kirby R. Holman

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

RBS Citizens, N.A.

By: /s/ Samuel A. Bluso

Name: Samuel A. Bluso

Title: Senior Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

MORGAN STANLEY BANK, N.A.

By: /s/ Michael King

Name: Michael King

Title: Authorized Signatory

Health Care REIT, Inc. Credit Agreement Signature Page

The Bank of Tokyo-Mitsubishi UFJ, Ltd.

By: /s/ Scott O' Connell

Name: Scott O' Connell

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

**THE SUMITOMO MITSUI BANKING
CORPORATION**

By: /s/ Kazuhisa Matsuda

Name: Kazuhisa Matsuda

Title: Managing Director

Health Care REIT, Inc. Credit Agreement Signature Page

THE BANK OF NEW YORK MELLON

By: /s/ Helga Blum

Name: Helga Blum

Title: Managing Director

Health Care REIT, Inc. Credit Agreement Signature Page

THE HUNTINGTON NATIONAL BANK

By: /s/ Kristy Ahee

Name: Kristy Ahee

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

BRANCH BANKING AND TRUST COMPANY

By: /s/ Ahaz Armstrong

Name: Ahaz Armstrong

Title: Assistant Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

Comerica Bank, a Texas Banking Association

By: /s/ Kyle B. O' Neil

Name: Kyle B. O' Neill

Title: Account Representative

Health Care REIT, Inc. Credit Agreement Signature Page

RAYMOND JAMES BANK, N.A.

By: /s/ James. M. Armstrong

Name: James M. Armstrong

Title: Senior Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

CITY NATIONAL BANK,
a national banking association

By: /s/ Christina P. Blackwell

Name: Christina P. Blackwell

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

**BANK OF TAIWAN, LOS ANGELES
BRANCH**

By: /s/ Chwan-Ming Ho

Name: Chwan-Ming Ho

Title: VP & General Manager

Health Care REIT, Inc. Credit Agreement Signature Page

BOKF, N.A. dba Bank of Oklahoma

By: /s/ Bershunda J. Taylor

Name: Bershunda J. Taylor

Title: Vice President

Health Care REIT, Inc. Credit Agreement Signature Page

CATHAY UNITED BANK, LTD.

By: /s/ Alexander Wu

Name: Alexander Wu

Title: SVP & General Manager

Health Care REIT, Inc. Credit Agreement Signature Page

E.SUN COMMERCIAL BANK, LTD.,
LOS ANGELES BRANCH

By: /s/ Edward Chen

Name: Edward Chen

Title: VP & General Manager

Health Care REIT, Inc. Credit Agreement Signature Page

Taiwan Cooperative Bank, Los Angeles Branch,
As a Lender

By: /s/ Li Hua Huang

Name: Li Hua Huang

Title: VP & General Manager

Health Care REIT, Inc. Credit Agreement Signature Page

EXHIBIT A

**Form of
Administrative Questionnaire**

[On file with the Administrative Agent]

EXHIBIT B

**Form of
Assignment and Assumption**

This Assignment and Assumption (this “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [the][each]¹ Assignor identified in item 1 below ([the][each, an] “Assignor”) and [the][each]² Assignee identified in item 2 below ([the][each, an] “Assignee”). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees]³ hereunder are several and not joint.]⁴ Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, (a) all of [the Assignor’ s][the respective Assignors’] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Credit Agreement and any other Loan Documents in the amount[s] and equal to the percentage interest[s] identified below of all the outstanding rights and obligations under the respective facilities identified below (including, without limitation, the [Letters of Credit and the Swingline Loans] included in such facilities⁵) and (b) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other Loan Documents or the credit transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (a) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (a) and (b) above being referred to herein collectively as [the][an] “Assigned Interest”). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the][any] Assignor.

1. Assignor[s]: _____

¹ For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

² For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

³ Select as appropriate.

⁴ Include bracketed language if there are either multiple Assignors or multiple Assignees.

⁵ Include all applicable subfacilities.

2. Assignee[s]: _____

[for each Assignee, indicate [Affiliate][Approved Fund] of [identify Lender]]

3. Borrower: Health Care REIT, Inc., a Delaware corporation

4. Administrative Agent: KeyBank National Association, as the administrative agent under the Credit Agreement

5. Credit Agreement: Credit Agreement, dated as of January 7, 2013 among the Borrower, the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer, and Swingline Lender

6. Assigned Interest:

<u>Assignor[s]</u> ⁶	<u>Assignee[s]</u> ⁷	<u>Facility Assigned</u> ⁸	<u>Aggregate Amount of Commitment/Loans for all Lenders</u> ⁹	<u>Amount of Commitment/Loans Assigned</u>	<u>Percentage Assigned of Commitment/Loans</u> ¹⁰	<u>CUSIP Number</u>
		Revolving Commitment	\$	\$	%	
		Term Commitment/ Term Loans	\$	\$	%	
			\$	\$	%	

[7. Trade Date: _____] ¹¹

Effective Date: _____, 20 _____ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The terms set forth in this Assignment and Assumption are hereby agreed to:

⁶ List each Assignor, as appropriate.

⁷ List each Assignee, as appropriate.

⁸ Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. “Revolving Commitment”, “Term Commitment”, etc.).

⁹ Amounts in this column and in the column immediately to the right to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

¹⁰ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

¹¹ To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name: _____
Title: _____

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name: _____
Title: _____

[Consented to and]¹² Accepted:

KEYBANK NATIONAL ASSOCIATION, as
Administrative Agent

By: _____
Name: _____
Title: _____

[Consented to:]¹³

By: _____
Name: _____
Title: _____

¹² To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

¹³ To be added only if the consent of the Borrower and/or other parties (e.g. Swingline Lender, L/C Issuer) is required by the terms of the Credit Agreement.

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION

Standard Terms and Conditions for Assignment and Assumption

1. Representations and Warranties.

1.1. Assignor. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the][the relevant] Assigned Interest, (ii) [the][such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim created by the Assignor and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under the terms of the Credit Agreement (subject to such consents, if any, as may be required under the terms of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement and the other Loan Documents as a Lender thereunder and, to the extent of [the][the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by [the][such] Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire [the][such] Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to the terms of the Credit Agreement, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent, [the][any] Assignor or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, and (vii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, [the][any] Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in

accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the][each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the][the relevant] Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.¹

¹ Confirm that choice of law provision parallels the Credit Agreement.

EXHIBIT C

**Form of
Compliance Certificate**

Financial Statement Date: [_____, ____]

TO: KeyBank National Association, as Administrative Agent

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The undersigned Responsible Officer¹ hereby certifies as of the date hereof that [he/she] is the [] of the Borrower, and that, as such, [he/she] is authorized to execute and deliver this Certificate to the Administrative Agent on the behalf of the Borrower and the other Loan Parties, and that:

[Use following paragraph 1 for fiscal year-end financial statements]

1. The Borrower has delivered the year-end audited financial statements required by Section 6.01(a) of the Credit Agreement for the fiscal year of the Borrower ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

[Use following paragraph 1 for fiscal quarter-end financial statements]

1. The Borrower has delivered the unaudited financial statements required by Section 6.01(b) of the Credit Agreement for the fiscal quarter of the Borrower ended as of the above date. Such Consolidated financial statements accurately present the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

2. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made under [his/her] supervision, a detailed review of the transactions and condition (financial or otherwise) of the Borrower and its Subsidiaries during the accounting period covered by such financial statements.

¹ This certificate should be from the chief executive officer or treasurer of the Borrower.

3. A review of the activities of the Borrower and its Subsidiaries during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Borrower performed and observed all its obligations under the Loan Documents, and

[select one:]

[to the best knowledge of the undersigned, during such fiscal period each of the Borrower performed and observed each covenant and condition of the Loan Documents applicable to it, and no Default has occurred and is continuing.]

–or–

[to the best knowledge of the undersigned, the following covenants or conditions have not been performed or observed and the following is a list of each Default and its nature and status:]

4. The representations and warranties of the Borrower contained in Article V of the Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection therewith are (i) with respect to representations and warranties that contain a materiality qualification, true and correct on and as of the date hereof and (ii) with respect to representations and warranties that do not contain a materiality qualification, true and correct on and as of the date hereof, and except that for purposes of this Compliance Certificate, the representations and warranties contained in subsection (a) of Section 5.09 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01 of the Credit Agreement, including the statements in connection with which this Compliance Certificate is delivered.

5. The covenant analyses and information for Sections 6.09, 7.01(f), 7.08(d) and 7.14 of the Credit Agreement set forth on Schedule A attached hereto are true and accurate on and as of the date of this Certificate.

Delivery of an executed counterpart of a signature page of this Certificate by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Certificate.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Name: _____

Title: _____

Schedule A

Financial Statement Date: [,] (“Statement Date”)

HEALTH CARE REIT, INC.

COVENANT REVIEW

CREDIT AGREEMENT

DATED January 7, 2013

QUARTER ENDED:

(in thousands)

Section 6.09(a) Funded Indebtedness

Funded Indebtedness:	
Revolving Line of Credit	\$
Senior Notes	
Secured debt	
Capital lease	
Guarantees	
Revolver Letters of Credit	
Total funded indebtedness	<u> </u>
Tangible Net Worth	<u> </u>
Tangible Net Worth + funded indebtedness	<u> </u>
Leverage Ratio	<u> </u>
Limited to	<u> </u> 60.0 %

Section 6.09(b) Tangible Net Worth

Minimum Tangible Net Worth	<u>\$7,500,000</u>
Actual Tangible Net Worth	<u> </u>

Section 6.09(c) Fixed Charge Coverage

	Trailing 12 months
EBITDA:	
Net Income	\$
Add back:	
Interest	
Taxes based on income	
Depreciation	
Stock-based compensation	
Provision for loan losses	
Losses (gains) on extinguishment of debt	
EBITDA	
Fixed Charges:	
Interest (ex. Cap Int)	
Scheduled principal payments (excluding balloons)	
Preferred stock dividends	
Fixed Charges	
Fixed Charge Coverage Ratio	
Minimum Fixed Charge Coverage Ratio	<u>150</u> %

Section 6.09(d) Unencumbered Assets

Net Real Estate Assets	
Add: Accum Depreciation + loan loss reserve	
Cash	
Less: Encumbered Assets	
Unencumbered Assets	
Unsecured Debt:	
Revolving Line of Credit	
Guarantees	
Senior Notes	
Total Unsecured Debt:	
Unencumbered Assets to Unsecured Debt	
Maximum	<u>60.00%</u>

Section 7.01(f) Indebtedness

Total secured indebtedness		<u>\$0</u>
Permitted secured indebtedness:		
Consolidated Total Assets	\	
@ 30%	30.00%	<u></u>

Section 7.14 Construction Investments

Total Construction Investments	
Construction Loans	\$
Construction in Process	
Total	
Consolidated Total Assets	
Construction as % of Total Investments	
Maximum Construction Investments	<u>35.00%</u>

Section 7.08(d) Investment in Other Assets

Total Other Investments:	
Emeritus Corp.	\$
Silverado	
Traditions	
Provision JV	
Frauenshuh JV	
Legend JV	
Chartwell JV	
Forest City JV	
Non-real estate loans	
Total Other Investments	
Consolidated Total Assets	\$
Other Investments as % of Total	
Maximum Other Investments	<u>25.00%</u>

EXHIBIT D-1

**Form of
Loan Notice**

Date: [____, ____]

TO: KeyBank National Association, as Administrative Agent

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The undersigned hereby requests (select one):

- A Borrowing of [Revolving][Term] Loans
- A [conversion] or [continuation] of [Revolving][Term] Loans

1. On _____ (the "Credit Extension Date")

2. In the amount of _____

3. Comprised of: Base Rate Loans

Eurodollar Rate Loans

4. For Eurodollar Rate Loans: with an Interest Period of _____ months

5. For Revolving Loans: in the following Approved Currency:

[The Revolving Borrowing requested herein complies with the proviso to the first sentence of Section 2.01(b)[(i)][(ii)] of the Credit Agreement.]¹

The Borrower hereby represents and warrants that the conditions specified in Section 4.02 of the Credit Agreement shall be satisfied on and as of the Credit Extension Date.

¹ _____
Include this sentence in the case of a Revolving Borrowing.

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this notice.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT D-2

**Form of
Swingline Loan Notice**

TO: KeyBank National Association, as Administrative Agent and Swingline Lender

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The undersigned hereby requests a Swingline Loan:

1. On _____ (the "Credit Extension Date")
2. In the amount of \$ _____ .

The Swingline Borrowing requested herein complies with the requirements of the provisos contained in the third sentence of Section 2.04(a) of the Credit Agreement.

The Borrower hereby represents and warrants that the conditions specified in Section 4.02 of the Credit Agreement shall be satisfied on and as of the Credit Extension Date.

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

HEALTH CARE REIT, INC.
a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT E-1

**Form of
Bid Loan Quote Request**

TO: KeyBank National Association, as Administrative Agent and Swingline Lender

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

Pursuant to Section 2.01(c) of the Credit Agreement:

1. The Borrower hereby gives notice that it requests Bid Loan Quotes for the following proposed Bid Loan Borrowing(s)¹ on (the "Credit Extension Date")

:

<u>Credit Extension Date</u> ²	<u>Amount</u> ³	<u>Interest Period</u> ⁴
---	----------------------------	-------------------------------------

2. The Borrower hereby represents and warrants that the conditions specified in Section 4.02 of the Credit Agreement shall be satisfied on and as of the Credit Extension Date.

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

Health Care REIT, Inc.
a Delaware corporation

By: _____

Name: _____

Title: _____

¹ Up to three.

² Must be a Business Day.

³ Each amount must be at least \$2,000,000 and an integral multiple of \$1,000,000 in excess thereof.

⁴ A period of not more than 180 days after the funding date thereof and ending on a Business Day.

EXHIBIT E-2

**Form of
Bid Loan Quote Request**

TO: KeyBank National Association, as Administrative Agent and Swingline Lender

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

In response to the Borrower's Bid Loan Quote Request dated _____, (the "Bid Loan Quote Request"), we hereby make the following Bid Loan Quote(s) on the following terms:

1. Quoting Bank: _____
2. Name, address, phone number and facsimile number of person to contact at Quoting Bank:

3. We hereby offer to make Bid Loan(s) in the following principal amount(s), for the following Interest Period(s) and the following rate(s):

<u>Funding Date</u> ¹	<u>Amount</u> ²	<u>Interest Period</u> ³	<u>Quote</u> ⁴
----------------------------------	----------------------------	-------------------------------------	---------------------------

- ¹ As specified in the Bid Loan Quote Request.
- ² The principal amount bid for each Interest Period may not exceed the principal amount requested. Bids must be made for at least \$2,000,000 and an integral multiple of \$1,000,000 in excess thereof.
- ³ As specified in the Bid Loan Quote Request.
- ⁴ Specify rate of interest per annum ([quoted on an "all-in" basis] and rounded to the nearest 1/10,000 of 1%).

We understand and agree that the offer(s) set forth above, subject to the satisfaction of the applicable conditions set forth in the Credit Agreement, irrevocably obligate(s) us to make the Bid Loan(s) for which any offer(s) are accepted, in whole or in part, subject to the third sentence of Section 2.01(c)(ii)(B) of the Loan Agreement.

Date: _____, _____

[_____]⁵

By: _____⁶

Name: _____

Title: _____

⁵ Insert name of Quoting Bank

⁶ Must be an authorized officer.

EXHIBIT F-1

**Form of
Revolving Note**

[,]

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to the order of [] or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Revolving Loan from time to time made by the Lender to the Borrower under that certain Credit Agreement, dated as of January 7, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among the Borrower, the Lenders from time to time party thereto, and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender.

The Borrower promises to pay interest on the unpaid principal amount of each Revolving Loan from the date of such Revolving Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in the currency in which such Revolving Loan was denominated and in Same Day Funds at the Administrative Agent's Office for such currency. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Revolving Note is one of the Revolving Notes referred to in the Credit Agreement, and the holder is entitled to the benefits thereof. Revolving Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Revolving Note and endorse thereon the date, amount and maturity of its Revolving Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Revolving Note.

Delivery of an executed counterpart of a signature page of this Revolving Note by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Revolving Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT F-2

**Form of
Bid Loan Note**

[,]

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to the order of [] or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Bid Loan from time to time made by the Lender to the Borrower under that certain Credit Agreement, dated as of January 7, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among the Borrower, the Lenders from time to time party thereto, and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender.

The Borrower promises to pay interest on the unpaid principal amount of each Bid Loan from the date of such Bid Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars and in immediately available funds at the Administrative Agent's Office for such currency. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Bid Loan Note is one of the Bid Loan Notes referred to in the Credit Agreement, and the holder is entitled to the benefits thereof. Bid Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Bid Loan Note and endorse thereon the date, amount and maturity of its Bid Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Bid Loan Note.

Delivery of an executed counterpart of a signature page of this Bid Loan Note by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Revolving Note.

THIS BID LOAN NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT F-3

**Form of
Swingline Note**

[,]

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to the order of [] or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Swingline Loan from time to time made by the Lender to the Borrower under that certain Credit Agreement, dated as of January 7, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among the Borrower, the Lenders from time to time party thereto, and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender.

The Borrower promises to pay interest on the unpaid principal amount of each Swingline Loan from the date of such Swingline Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Lender in Dollars and in immediately available funds at the Lender's office for such currency. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Swingline Note is the Swingline Note referred to in the Credit Agreement, and the holder is entitled to the benefits thereof. Swingline Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Swingline Note and endorse thereon the date, amount and maturity of its Swingline Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Swingline Note.

Delivery of an executed counterpart of a signature page of this Swingline Loan Note by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Revolving Note.

THIS SWINGLINE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT F-4

**Form of
Term Note**

[,]

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to the order of [] or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of the Term Loan made by the Lender to the Borrower under that certain Credit Agreement, dated as of January 7, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement," the terms defined therein being used herein as therein defined), among the Borrower, the Lenders from time to time party thereto, and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender.

The Borrower promises to pay interest on the unpaid principal amount of the Term Loan made by the Lender from the date of such Term Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Term Note is one of the Term Notes referred to in the Credit Agreement and the holder is entitled to the benefits thereof. The Term Loan made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Term Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Term Note.

Delivery of an executed counterpart of a signature page of this Term Note by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Term Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT G

**Form of
Officer' s Certificate**

TO: KeyBank National Association, as Administrative Agent

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The undersigned Responsible Officer of Health Care REIT, Inc. (the "Company") hereby certifies as follows:

1. Attached hereto as Exhibit A is a true and complete copy of the certificate of incorporation of the Company and all amendments thereto as in effect on the date hereof certified as a recent date by the appropriate Governmental Authorities of the state of incorporation of the Company.

2. Attached hereto as Exhibit B is a true and complete copy of the bylaws of the Company and all amendments thereto as in effect on the date hereof.

3. Attached hereto as Exhibit C is a true and complete copy of resolutions duly adopted by the board of directors of the Company on October 25, 2012. Such resolutions have not in any way been rescinded or modified and have been in full force and effect since their adoption to and including the date hereof, and such resolutions are the only corporate proceedings of the Company now in force relating to or affecting the matters referred to therein.

4. Attached hereto as Exhibit D are true and complete copies of the certificates of good standing, existence or its equivalent of the Company certified as of a recent date by the appropriate Governmental Authorities of the state of incorporation of the Company and each other state in which the failure to so qualify and be in good standing could reasonably be expected to have a Material Adverse Effect.

5. The following persons are the duly elected and qualified officers of the Company, holding the offices indicated next to the names below on the date hereof, and the signatures appearing opposite the names of the officers below are their true and genuine signatures, and each of such officers is duly authorized to execute and deliver, on behalf of the Company, the Credit Agreement, the Notes and the other Loan Documents to be issued pursuant thereto:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
George L. Chapman	Chairman of the Board, Chief Executive Officer and President	
Michael A. Crabtree	Senior Vice President and Treasurer	
Erin C. Ibele	Senior Vice President - Administration and Corporate Secretary	

Delivery of an executed counterpart of a signature page of this Certificate by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Certificate.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, I hereunder subscribe my name effective as of the day and year set forth above.

By: _____

MICHAEL A. CRABTREE

Senior Vice President and Treasurer

I, ERIN C. IBELE, the Senior Vice President - Administration and Corporate Secretary of the Company, hereby certify that MICHAEL A. CRABTREE is the duly elected and qualified Senior Vice President and Treasurer of the Company and that his/her true and genuine signature is set forth above.

By: _____

ERIN C. IBELE

Senior Vice President - Administration and
Corporate Secretary

EXHIBIT H-1

**Form of
U.S. Tax Compliance Certificate**

(For Foreign Lenders That Are Not Partnerships
For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"). Pursuant to the provisions of Section 3.01 of the Credit Agreement, the undersigned hereby certifies that (a) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (b) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (c) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (d) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (a) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (b) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF FOREIGN LENDER]

By: _____

Name: _____

Title: _____

Date: _____, _____, _____

EXHIBIT H-2

**Form of
U.S. Tax Compliance Certificate**

(For Foreign Participants That Are Not Partnerships
For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"). Pursuant to the provisions of Section 3.01 of the Credit Agreement, the undersigned hereby certifies that (a) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (b) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (c) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (d) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (a) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (b) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, _____

EXHIBIT H-3

**Form of
U.S. Tax Compliance Certificate**

(For Foreign Participants That Are Partnerships
For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"). Pursuant to the provisions of Section 3.01 of the Credit Agreement, the undersigned hereby certifies that (a) it is the sole record owner of the participation in respect of which it is providing this certificate, (b) its direct or indirect partners/members are the sole beneficial owners of such participation, (c) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (d) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (e) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (a) an IRS Form W-8BEN or (b) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner' s/member' s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (i) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (ii) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name: _____

Title: _____

Date: _____, _____

EXHIBIT H-4

**Form of
U.S. Tax Compliance Certificate**

(For Foreign Lenders That Are Partnerships
For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"). Pursuant to the provisions of Section 3.01 of the Credit Agreement, the undersigned hereby certifies that (a) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (b) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (c) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (d) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (e) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (a) an IRS Form W-8BEN or (b) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (i) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (ii) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name: _____

Title: _____

Date: _____, _____

EXHIBIT I

**Form of
Funding Indemnity Letter**

TO: KeyBank National Association, as Administrative Agent
Lenders to the Credit Agreement (as hereinafter defined)

RE: Credit Agreement, dated as of January 7, 2013, by and among Health Care REIT, Inc., a Delaware corporation (the "Borrower"), the Lenders and KeyBank National Association, as Administrative Agent, L/C Issuer and Swingline Lender (as amended, modified, extended, restated, replaced, or supplemented from time to time, the "Credit Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

This letter is delivered in anticipation of the closing of the Credit Agreement. Capitalized terms used herein and not otherwise defined shall have the meanings assigned thereto in the most recent draft of the Credit Agreement circulated to the Borrower and the Lenders.

The Borrower anticipates that all conditions precedent to the effectiveness of the Credit Agreement will be satisfied on January 7, 2013 (the "Effective Date"). The Borrower wishes to borrow the initial Revolving Loans and the Term Loan, described in the Loan Notice delivered in connection with this letter agreement, on the Effective Date as Eurodollar Rate Loans (the "Effective Date Eurodollar Rate Loans").

The Borrower acknowledges that (a) in order to accommodate the foregoing request, the Lenders are making funding arrangements for value on the Effective Date, (b) there can be no assurance that the Credit Agreement will become effective as of the Effective Date, (c) the Lenders will not make Effective Date Eurodollar Rate Loans unless the Credit Agreement has been fully executed and the requirements set forth in Article IV of the Credit Agreement are satisfied (the "Funding Requirements"), and (d) if the Funding Requirements are not satisfied on or before the Effective Date, the Lenders may sustain funding losses as a result of such failure to close on such date.

In order to induce the Lenders to make the funding arrangements necessary to make the Effective Date Eurodollar Rate Loans on the Effective Date, the Borrower agrees promptly upon demand to compensate each Lender and hold each Lender harmless from any loss, cost or expense (including the cost of counsel) which such Lender may incur (a) as a consequence of any failure to (i) satisfy the Funding Requirements or (ii) borrow the Effective Date Eurodollar Rate Loans on the Effective Date from such Lender for any reason whatsoever (including the failure of the Credit Agreement to become effective) or (b) in connection with the preparation, administration or enforcement of, or any dispute arising under, this Funding Indemnity Letter. For purposes of calculating amounts payable by the Borrower to any Lender under this paragraph, the provisions of Section 3.05 of the Credit Agreement shall apply as if the Credit Agreement were in effect with respect to the Effective Date Eurodollar Rate Loans (regardless of whether the Credit Agreement ever becomes effective).

This letter agreement may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this letter agreement by fax transmission or other electronic mail transmission (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this letter agreement. This letter agreement shall be governed by, and construed in accordance with, the law of the State of New York.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

HEALTH CARE REIT, INC.

a Delaware corporation

By: _____

Name: _____

Title: _____

SCHEDULES

Schedule 1.01(a)	Certain Addresses for Notices
Schedule 1.01(b)	Initial Commitments and Applicable Percentages
Schedule 1.01(c)	Existing Letters of Credit
Schedule 1.01(d)	Mandatory Cost
Schedule 5.02	Consents, Waivers, Approvals; Violation of Agreements
Schedule 5.06	Judgments, Actions, Proceedings
Schedule 5.07	Defaults; Compliance with Laws, Regulations, Agreements
Schedule 5.08	Burdensome Documents
Schedule 5.13	Name Changes, Mergers, Acquisitions
Schedule 5.16	Employee Benefit Plans
Schedule 7.01	Permitted Indebtedness and Guarantees
Schedule 7.02	Permitted Security Interests

CERTAIN ADDRESSES FOR NOTICES

BORROWER:

Health Care REIT, Inc.
4500 Dorr Street
Toledo, Ohio 43615-4040
Attention: Mr. George L. Chapman
Chairman of the Board and
Chief Executive Officer
Facsimile No: (419) 247-2826

with a copy to:

Shumaker, Loop & Kendrick, LLP
North Courthouse Square
1000 Jackson Street
Toledo, Ohio 43604-5573
Attention: Mary Ellen Pisanelli, Esq.
Facsimile No.: (419) 241-6894

ADMINISTRATIVE AGENT; SWING LINE LENDER:

DAILY OPERATIONS CONTACT (SWING LINE LENDER):

KeyBank National Association, as Administrative Agent
4910 Tiedeman Rd.
Mail Code: OH-01-51-0311
Brooklyn, Ohio 44144
Attention: Audrey Pishnery, Servicing Officer
Facsimile No.: (216) 357-6383

USD PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
4910 Tiedeman Rd.
Mail Code: OH-01-51-0311
Brooklyn, Ohio 44144
Attention: Audrey Pishnery, Servicing Officer
Facsimile No.: (216) 357-6383

EUR PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

GBP PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

YEN PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

CANADIAN DOLLAR PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

AUSTRALIAN DOLLAR PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

SWISS FRANC PAYMENT INSTRUCTIONS:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Elsa O' Brien, Manager
Facsimile No.: (216) 689-0255

OTHER NOTICES AS ADMINISTRATIVE AGENT:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Laura Conway
Vice President
Facsimile No.: (216) 689-5970

L/C ISSUER:

KeyBank National Association, as Administrative Agent
127 Public Square
Cleveland, Ohio 44114-1306
Attention: Laura Conway
Vice President
Facsimile No.: (216) 689-5970

**REVOLVING COMMITMENTS
AND APPLICABLE PERCENTAGES**

<u>Lender</u>		<u>Revolving Commitment</u>	<u>Applicable Percentage</u>
Bank of America	1	\$139,090,909.09	6.181818181818%
JP Morgan Chase	2	\$139,090,909.09	6.181818181818%
KeyBank	3	\$139,090,909.10	6.181818181818%
Deutsche Bank	4	\$139,090,909.09	6.181818181818%
Barclays Bank PLC	5	\$122,727,272.73	5.454545454545%
Credit Agricole Corporate and Investment Bank	6	\$122,727,272.73	5.454545454545%
UBS Loan Finance	7	\$122,727,272.73	5.454545454545%
Wells Fargo Bank	8	\$122,727,272.73	5.454545454545%
Citibank	9	\$122,727,272.73	5.454545454545%
Royal Bank of Canada	10	\$122,727,272.73	5.454545454545%
Suntrust	11	\$90,000,000.00	4.000000000000%
Fifth Third	12	\$90,000,000.00	4.000000000000%
BBVA Compass	13	\$90,000,000.00	4.000000000000%
Credit Suisse AG, Cayman Islands Branch	14	\$90,000,000.00	4.000000000000%
PNC Bank	15	\$81,818,181.82	3.636363636364%
RBS Citizens	16	\$81,818,181.82	3.636363636364%
Morgan Stanley Bank, N.A.	17	\$61,363,636.36	2.727272727273%
Bank of Tokyo Mitsubishi	18	\$61,363,636.36	2.727272727273%
Sumitomo Mitsui Banking Corporation	19	\$53,181,818.18	2.363636363636%
Bank of NY Mellon	20	\$53,181,818.18	2.363636363636%
Huntington Bank	21	\$53,181,818.18	2.363636363636%
Branch Banking and Trust Company	22	\$40,909,090.91	1.818181818182%
Comerica Bank	23	\$32,727,272.73	1.454545454545%
City National Bank	24	\$16,363,636.36	0.727272727273%
Raymond James Bank, N.A.	25	\$16,363,636.36	0.727272727273%
Bank of Taiwan	26	\$12,272,727.27	0.545454545455%
BOKF, NA dba Bank of Oklahoma	27	\$8,181,818.18	0.363636363636%
Cathay United Bank	28	\$8,181,818.18	0.363636363636%
E. Sun Commercial Bank	29	\$8,181,818.18	0.363636363636%
Taiwan Cooperative Bank, Los Angeles Branch	30	\$8,181,818.18	0.363636363636%
Total		\$2,250,000,000	100.00000000 %

**U.S TRANCHE REVOLVING
COMMITMENTS AND APPLICABLE PERCENTAGES**

<u>Lender</u>		<u>U.S Tranche Revolving Commitment</u>	<u>Applicable Percentage</u>
Bank of America	1	\$ 107,315,208.16	6.132297609143%
JP Morgan Chase	2	\$ 107,315,208.16	6.132297609143%
KeyBank	3	\$ 107,315,208.16	6.132297609143%
Deutsche Bank	4	\$ 107,315,208.16	6.132297609143%
Barclays Bank PLC	5	\$ 94,689,889.55	5.410850831429%
Credit Agricole Corporate and Investment Bank	6	\$ 94,689,889.55	5.410850831429%
UBS Loan Finance	7	\$ 94,689,889.55	5.410850831429%
Wells Fargo Bank	8	\$ 94,689,889.55	5.410850831429%
Citibank	9	\$ 94,689,889.55	5.410850831429%
Royal Bank of Canada	10	\$ 94,689,889.55	5.410850831429%
Suntrust	11	\$ 69,439,252.34	3.967957276571%
Fifth Third	12	\$ 69,439,252.34	3.967957276571%
BBVA Compass	13	\$ 69,439,252.34	3.967957276571%
Credit Suisse AG, Cayman Islands Branch	14	\$ 69,439,252.34	3.967957276571%
PNC Bank	15	\$ 63,126,593.03	3.607233887429%
RBS Citizens	16	\$ 63,126,593.03	3.607233887429%
Morgan Stanley Bank, N.A.	17	\$ 47,344,944.77	2.705425415429%
Bank of Tokyo Mitsubishi	18	\$ 47,344,944.77	2.705425415429%
Sumitomo Mitsui Banking Corporation	19	\$ 41,032,285.47	2.344702026857%
Bank of NY Mellon	20	\$ 41,032,285.47	2.344702026857%
Huntington Bank	21	\$ 41,032,285.47	2.344702026857%
Branch Banking and Trust Company	22	\$ 31,563,296.52	1.803616944000%
Comerica Bank	23	\$ 25,250,637.21	1.442893554857%
City National Bank	24	\$ 12,625,318.61	0.721446777714%
Raymond James Bank, N.A.	25	\$ 16,363,636.36	0.935064934857%
Bank of Taiwan	26	\$ 12,272,727.27	0.701298701143%
BOKF, NA dba Bank of Oklahoma	27	\$ 8,181,818.18	0.467532467429%
Cathay United Bank	28	\$ 8,181,818.18	0.467532467429%
E. Sun Commercial Bank	29	\$ 8,181,818.18	0.467532467429%
Taiwan Cooperative Bank, Los Angeles Branch	30	\$ 8,181,818.18	0.467532467429%
Total		\$ 1,750,000,000	100.00000000 %

**ALTERNATIVE CURRENCY TRANCHE REVOLVING
COMMITMENTS AND APPLICABLE PERCENTAGES**

<u>Lender</u>		Alternative Currency	
		<u>Revolving Commitment¹</u>	<u>Applicable Percentage</u>
Bank of America, N.A.	1	\$31,775,700.93	6.355140186%
JPMorgan Chase Bank, N.A.	2	\$31,775,700.93	6.355140186%
KeyBank National Association	3	\$31,775,700.93	6.355140186%
Deutsche Bank AG New York Branch	4	\$31,775,700.93	6.355140186%
Barclays Bank PLC	5	\$28,037,383.18	5.607476636%
Credit Agricole Corporate and Investment Bank	6	\$28,037,383.18	5.607476636%
UBS	7	\$28,037,383.18	5.607476636%
Wells Fargo Bank, National Association	8	\$28,037,383.18	5.607476636%
Citibank, N.A.	9	\$28,037,383.18	5.607476636%
Royal Bank of Canada	10	\$28,037,383.18	5.607476636%
Sun Trust Bank	11	\$20,560,747.66	4.112149532%
Fifth Third Bank, an Ohio Banking Corporation	12	\$20,560,747.66	4.112149532%
Compass Bank	13	\$20,560,747.66	4.112149532%
Credit Suisse AG, Cayman Islands Branch	14	\$20,560,747.66	4.112149532%
PNC Bank, N.A.	15	\$18,691,588.79	3.738317758%
RBS Citizens, N.A.	16	\$18,691,588.79	3.738317758%
Morgan Stanley Bank, N.A.	17	\$14,018,691.59	2.803738318%
The Bank of Tokyo-Mitsubishi UFJ, Ltd.	18	\$14,018,691.59	2.803738318%
Sumitomo Mitsui Banking Corporation	19	\$12,149,532.71	2.429906542%
Bank of New York Mellon	20	\$12,149,532.71	2.429906542%
The Huntington National Bank	21	\$12,149,532.71	2.429906542%
Branch Banking and Trust Company	22	\$9,345,794.39	1.869158878%
Comerica Bank	23	\$7,476,635.51	1.495327102%
City National Bank, a National Banking Association	24	\$3,738,317.77	0.747663554%
Total		\$500,000,000	100.00

¹ Dollar Equivalent

**ALTERNATIVE CURRENCY
TRANCHE REVOLVING LENDERS²**

<u>Lender</u>	Australian		Canadian		Swiss	
	Dollars	Euros	Dollars	Sterling	Francs	Yen
Bank of America, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
JPMorgan Chase Bank, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
KeyBank National Association	Yes	Yes	Yes	Yes	Yes	Yes
Deutsche Bank AG New York Branch	Yes	Yes	Yes	Yes	Yes	Yes
Barclays Bank PLC	Yes	Yes	Yes	Yes	Yes	Yes
Credit Agricole Corporate and Investment Bank	Yes	Yes	Yes	Yes	Yes	Yes
UBS	Yes	Yes	Yes	Yes	Yes	Yes
Wells Fargo Bank, National Association	Yes	Yes	Yes	Yes	Yes	Yes
Citibank, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
Royal Bank of Canada	Yes	Yes	Yes	Yes	Yes	Yes
Sun Trust Bank	Yes	Yes	Yes	Yes	Yes	Yes
Fifth Third Bank, an Ohio Banking Corporation	Yes	Yes	Yes	Yes	Yes	Yes
Compass Bank	Yes	Yes	Yes	Yes	Yes	Yes
Credit Suisse AG, Cayman Islands Branch	Yes	Yes	Yes	Yes	Yes	Yes
PNC Bank, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
RBS Citizens, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
Morgan Stanley Bank, N.A.	Yes	Yes	Yes	Yes	Yes	Yes
The Bank of Tokyo-Mitsubishi UFJ, Ltd.	Yes	Yes	Yes	Yes	Yes	Yes
Sumitomo Mitsui Banking Corporation	Yes	Yes	Yes	Yes	Yes	Yes
Bank of New York Mellon	Yes	Yes	Yes	Yes	Yes	Yes
The Huntington National Bank	Yes	Yes	Yes	Yes	Yes	Yes
Branch Banking and Trust Company	Yes	Yes	Yes	Yes	Yes	Yes
Comerica Bank	Yes	Yes	Yes	Yes	Yes	Yes
City National Bank, a National Banking Association	Yes	Yes	Yes	Yes	Yes	Yes

² A “Yes” on this table indicates that a Lender has the ability to fund in a particular currency.

**TERM COMMITMENTS
AND APPLICABLE PERCENTAGES**

<u>Lender</u>	<u>Term Commitment</u>	<u>Applicable Percentage</u>
Bank of America	\$30,909,090.91	6.181818181818%
JP Morgan Chase	\$30,909,090.91	6.181818181818%
KeyBank	\$30,909,090.90	6.181818181818%
Deutsche Bank	\$30,909,090.91	6.181818181818%
Barclays Bank PLC	\$27,272,727.27	5.454545454545%
Credit Agricole Corporate and Investment Bank	\$27,272,727.27	5.454545454545%
UBS Loan Finance	\$27,272,727.27	5.454545454545%
Wells Fargo Bank	\$27,272,727.27	5.454545454545%
Citibank	\$27,272,727.27	5.454545454545%
Royal Bank of Canada	\$27,272,727.27	5.454545454545%
Suntrust	\$20,000,000.00	4.000000000000%
Fifth Third	\$20,000,000.00	4.000000000000%
BBVA Compass	\$20,000,000.00	4.000000000000%
Credit Suisse AG, Cayman Islands Branch	\$20,000,000.00	4.000000000000%
PNC Bank	\$18,181,818.18	3.636363636364%
RBS Citizens	\$18,181,818.18	3.636363636364%
Morgan Stanley Bank, N.A.	\$13,636,363.64	2.727272727273%
Bank of Tokyo Mitsubishi	\$13,636,363.64	2.727272727273%
Sumitomo Mitsui Banking Corporation	\$11,818,181.82	2.363636363636%
Bank of NY Mellon	\$11,818,181.82	2.363636363636%
Huntington Bank	\$11,818,181.82	2.363636363636%
Branch Banking and Trust Company	\$9,090,909.09	1.818181818182%
Comerica Bank	\$7,272,727.27	1.454545454545%
Raymond James Bank, N.A.	\$3,636,363.64	0.727272727273%
City National Bank	\$3,636,363.64	0.727272727273%
Bank of Taiwan	\$2,727,272.73	0.545454545455%
BOKF, NA dba Bank of Oklahoma	\$1,818,181.82	0.363636363636%
Cathay United Bank	\$1,818,181.82	0.363636363636%
E. Sun Commercial Bank	\$1,818,181.82	0.363636363636%
Taiwan Cooperative Bank, Los Angeles Branch	\$1,818,181.82	0.363636363636%
Total	\$500,000,000	100.00000000 %

EXISTING LETTERS OF CREDIT

None.

MANDATORY COST

1. The Mandatory Cost (to the extent applicable) is an addition to the interest rate to compensate Lenders for the cost of compliance with:

- (a) the requirements of the Bank of England and/or the Financial Services Authority (or, in either case, any other authority which replaces all or any of its functions); or
- (b) the requirements of the European Central Bank.

2. On the first day of each Interest Period (or as soon as possible thereafter) the Administrative Agent shall calculate, as a percentage rate, a rate (the "Additional Cost Rate") for each Lender, in accordance with the paragraphs set out below. The Mandatory Cost will be calculated by the Administrative Agent as a weighted average of the Lenders' Additional Cost Rates (weighted in proportion to the percentage participation of each Lender in the relevant Loan) and will be expressed as a percentage rate per annum. The Administrative Agent will, at the request of the Borrower or any Lender, deliver to the Borrower or such Lender as the case may be, a statement setting forth the calculation of any Mandatory Cost.

3. The Additional Cost Rate for any Lender lending from a Lending Office in a Participating Member State will be the percentage notified by that Lender to the Administrative Agent. This percentage will be certified by such Lender in its notice to the Administrative Agent to be its reasonable determination of the cost (expressed as a percentage of such Lender's participation in all Loans made from such Lending Office) of complying with the minimum reserve requirements of the European Central Bank in respect of Loans made from that Lending Office.

4. The Additional Cost Rate for any Lender lending from a Lending Office in the United Kingdom will be calculated by the Administrative Agent as follows:

- (a) in relation to any Loan in Sterling:

$$\frac{AB+C(B-D)+E \times 0.01}{100 - (A+C)} \text{ per cent per annum}$$

- (b) in relation to any Loan in any currency other than Sterling:

$$\frac{E \times 0.01}{300} \text{ per cent per annum}$$

Where:

"A" is the percentage of Eligible Liabilities (assuming these to be in excess of any stated minimum) which that Lender is from time to time required to maintain as an interest free cash ratio deposit with the Bank of England to comply with cash ratio requirements.

“B” is the percentage rate of interest (excluding the Applicable Rate, the Mandatory Cost and any interest charged on overdue amounts pursuant to the first sentence of Section 2.08(b) and, in the case of interest (other than on overdue amounts) charged at the Default Rate, without counting any increase in interest rate effected by the charging of the Default Rate) payable for the relevant Interest Period of such Loan.

“C” is the percentage (if any) of Eligible Liabilities which such Lender is required from time to time to maintain as interest bearing Special Deposits with the Bank of England.

“D” is the percentage rate per annum payable by the Bank of England to the Administrative Agent on interest bearing Special Deposits.

“E” is designed to compensate Lenders for amounts payable under the Fees Rules and is calculated by the Administrative Agent as being the average of the most recent rates of charge supplied by the Lenders to the Administrative Agent pursuant to paragraph 7 below and expressed in pounds per £1,000,000.

5. For the purposes of this Schedule:

- (a) “Eligible Liabilities” and “Special Deposits” have the meanings given to them from time to time under or pursuant to the Bank of England Act 1998 or (as may be appropriate) by the Bank of England;
- (b) “Fees Rules” means the rules on periodic fees contained in the FSA Supervision Manual or such other law or regulation as may be in force from time to time in respect of the payment of fees for the acceptance of deposits;
- (c) “Fee Tariffs” means the fee tariffs specified in the Fees Rules under the activity group A.1 Deposit acceptors (ignoring any minimum fee or zero rated fee required pursuant to the Fees Rules but taking into account any applicable discount rate); and
- (d) “Tariff Base” has the meaning given to it in, and will be calculated in accordance with, the Fees Rules.

6. In application of the above formulae, A, B, C and D will be included in the formulae as percentages (i.e. 5% will be included in the formula as 5 and not as 0.05). A negative result obtained by subtracting D from B shall be taken as zero. The resulting figures shall be rounded to four decimal places.

7. If requested by the Administrative Agent or the Borrower, each Lender with a Lending Office in the United Kingdom or a Participating Member State shall, as soon as practicable after publication by the Financial Services Authority, supply to the Administrative Agent and the Borrower, the rate of charge payable by such Lender to the Financial Services Authority pursuant to the Fees Rules in respect of the relevant financial year of the Financial Services Authority (calculated for this purpose by such Lender as being the average of the Fee Tariffs applicable to such Lender for that financial year) and expressed in pounds per £1,000,000 of the Tariff Base of such Lender.

8. Each Lender shall supply any information required by the Administrative Agent for the purpose of calculating its Additional Cost Rate. In particular, but without limitation, each Lender shall supply the following information in writing on or prior to the date on which it becomes a Lender:

- (a) the jurisdiction of the Lending Office out of which it is making available its participation in the relevant Loan; and
- (b) any other information that the Administrative Agent may reasonably require for such purpose.

Each Lender shall promptly notify the Administrative Agent in writing of any change to the information provided by it pursuant to this paragraph.

9. The percentages of each Lender for the purpose of A and C above and the rates of charge of each Lender for the purpose of E above shall be determined by the Administrative Agent based upon the information supplied to it pursuant to paragraphs 7 and 8 above and on the assumption that, unless a Lender notifies the Administrative Agent to the contrary, each Lender's obligations in relation to cash ratio deposits and Special Deposits are the same as those of a typical bank from its jurisdiction of incorporation with a Lending Office in the same jurisdiction as its Lending Office.

10. The Administrative Agent shall have no liability to any Person if such determination results in an Additional Cost Rate which over- or under-compensates any Lender and shall be entitled to assume that the information provided by any Lender pursuant to paragraphs 3, 7 and 8 above is true and correct in all respects.

11. The Administrative Agent shall distribute the additional amounts received as a result of the Mandatory Cost to the Lenders on the basis of the Additional Cost Rate for each Lender based on the information provided by each Lender pursuant to paragraphs 3, 7 and 8 above.

12. Any determination by the Administrative Agent pursuant to this Schedule in relation to a formula, the Mandatory Cost, an Additional Cost Rate or any amount payable to a Lender shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

13. The Administrative Agent may from time to time, after consultation with the Borrower and the Lenders, reasonably and in good faith, determine and notify to all parties any

amendments which are required to be made to this Schedule in order to comply with any change in law, regulation or any requirements from time to time imposed by the Bank of England, the Financial Services Authority or the European Central Bank (or, in any case, any other authority which replaces all or any of its functions) and any such determination shall, in the absence of manifest error, be conclusive and binding on all parties hereto.

14. The Borrower shall be required to pay any Mandatory Cost calculated in accordance with this Schedule only to the extent that the Administrative Agent or the applicable Lender generally imposes such Mandatory Cost on other borrowers of such Lender in similar circumstances.

**FOR IMMEDIATE RELEASE**

January 8, 2013

For more information contact:

Scott Estes (419) 247-2800

Jay Morgan (419) 247-2800

**HEALTH CARE REIT, INC. ANNOUNCES CLOSING OF NEW
\$2.75 BILLION UNSECURED CREDIT FACILITY**

Toledo, Ohio, January 8, 2013... **Health Care REIT, Inc. (NYSE:HCN)** announced today that it has closed a \$2.75 billion unsecured credit facility consisting of a \$2.25 billion revolver and a \$500 million term loan to be funded today. The facility replaces the company's existing \$2.0 billion unsecured revolving credit facility.

The revolver matures on March 31, 2017, and can be extended for an additional year at the company's option. The term loan matures on March 31, 2016, and can be extended up to two years at the company's option. Based on the company's current credit ratings, the revolver bears interest at LIBOR plus 117.5 basis points and has an annual facility fee of 22.5 basis points. The term loan bears interest at LIBOR plus 135 basis points. Health Care REIT has an option to upsize the facility by up to an additional \$1.0 billion through an accordion feature, allowing for aggregate commitments of up to \$3.75 billion. The facility also allows the company to borrow up to \$500 million in alternate currencies.

"We continue to benefit from a favorable borrowing environment and the support of our bank group. The improved terms and additional capacity of this credit facility provide Health Care REIT with an efficient capital source to support its accretive investment program," commented George L. Chapman, Health Care REIT's Chairman and Chief Executive Officer.

The company intends to use proceeds from the credit facility to fund announced investment activity and for general corporate purposes including investing in health care and seniors housing properties.

The credit facility was arranged by Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC as Joint Bookrunners and Joint Lead Arrangers. Bank of America, N.A. and JPMorgan Chase Bank, N.A. were Co-Syndication Agents. KeyBanc Capital Markets Inc. was a Joint Lead Arranger and KeyBank National Association was Administrative Agent. Deutsche Bank Securities, Inc. served as a Joint Lead Arranger and Documentation Agent.

About Health Care REIT, Inc.

Health Care REIT, Inc., an S&P 500 company with headquarters in Toledo, Ohio, is a real estate investment trust that invests across the full spectrum of seniors housing and health care real estate. The company also provides an extensive array of property management and development services. As of September 30, 2012, the company's broadly diversified portfolio consisted of 1,030 properties in 46 states, the United Kingdom, and Canada.

Forward-Looking Statements

This document may contain "forward-looking" statements as defined in the Private Securities Litigation Reform Act of 1995. When the company uses words such as "may," "will," "intend," "should," "believe," "expect," "anticipate," "project," "estimate" or similar expressions, it is making forward-looking statements. Forward-

looking statements are not guarantees of future performance and involve risks and uncertainties. The company' s expected results may not be achieved, and actual results may differ materially from expectations. This may be a result of various factors, including, but not limited to, those factors discussed in the company' s reports filed from time to time with the Securities and Exchange Commission. The company assumes no obligation to update or revise any forward-looking statements or to update the reasons why actual results could differ from those projected in any forward-looking statements.

(end)

**FOR IMMEDIATE RELEASE**

January 9, 2013

For more information contact:

Scott Estes (419) 247-2800

Jay Morgan (419) 247-2800

**HEALTH CARE REIT, INC. COMPLETES ACQUISITION OF SUNRISE SENIOR LIVING
AND SALE OF MANAGEMENT COMPANY****Accelerated joint venture partner buy-outs increase aggregate real estate value to \$4.3 billion**

Toledo, Ohio, January 9, 2013...Health Care REIT, Inc. (NYSE:HCN) announced today the completion of the acquisition of the Sunrise Senior Living, Inc. property portfolio, the sale of the Sunrise management company, and the acceleration of all planned joint venture partner buy-outs. The company's investment in Sunrise properties as of today is \$3.4 billion, and that investment is expected to increase to \$4.3 billion by July 2013 upon exercise of the company's rights to acquire additional joint venture partner interests at fixed purchase prices.

"Rapid and efficient execution of a complex acquisition, accelerated joint venture buy-outs at accretive prices, and the favorable sale of the management company has positioned us with the premier seniors housing portfolio in the market place at a price that generates very attractive risk adjusted returns for our shareholders," commented George L. Chapman, Chairman and CEO of Health Care REIT, Inc. "The Sunrise properties complement our high quality portfolio of predominately private pay properties concentrated in affluent high barrier to entry markets. We expect the Sunrise properties to deliver consistent and resilient growth in NOI and asset value. Our partnership in the Sunrise management company and our strong relationship with Kohlberg Kravis Roberts & Co. and Beecken Petty O' Keefe & Company will offer future strategic opportunities, producing immediate and long-term shareholder value."

The \$4.3 billion investment is expected to include 120 wholly owned properties and five joint venture properties. The 125 properties are among the highest quality seniors housing properties in the market place. Approximately 90% of the properties are Sunrise's well regarded mansion prototype, while the average age of these properties is only eight years. The properties generate average monthly rental rates that are nearly 100% higher than the national average because they are located in markets with high concentrations of age and income-qualified elderly, affluence, and significant barriers to entry. The high quality of these properties is also evidenced by the fact that the median housing value in these markets is 100% higher than the national median. The properties are concentrated in London, Southern California, Chicago, Philadelphia, Boston, Washington D.C., and Montreal. Health Care REIT expects the \$4.3 billion acquisition to generate a 6.5% unlevered initial yield, or 6.1% after capital expenditures.

\$4.3 Billion Sunrise Real Estate Acquisition:

Since the announcement of the proposed acquisition on August 22, 2012, the company accelerated the buy-out of joint venture partner interests in 100 of the 105 joint venture properties. Health Care REIT acquired five of the joint venture properties located in the United Kingdom in the third quarter of 2012 for \$243.5 million. During the fourth quarter of 2012, Sunrise used \$580.8 million of loan proceeds from Health Care REIT and its own funds to acquire joint venture partners' interest in 37 of the 105 joint venture properties and to repay certain secured indebtedness. The loans were converted to owned real estate by the company as of today's closing. Also during the fourth quarter of 2012, Health Care REIT acquired majority interest in and repaid debt related to five properties located in the United Kingdom for \$238.7 million and reached agreement with additional joint venture partners to acquire their interest in 53 of the 105 joint venture properties. The company expects to complete the buyout on these 53 properties on or before July 2013.

Sunrise Property Count Reconciliation:

	Announced	Partner	Total	Remaining	Total
	8/22/12	Buy-Outs To Date	As of Today	2013E	
Wholly Owned	20	47	67	53	120
Joint Venture	105	(47)	58	(53)	5
Total	125		125		125

The aggregate \$4.3 billion acquisition amount includes the anticipated assumption of \$494.0 million of debt with a blended rate of 5.1%. The assumed debt is net of approximately \$2.1 billion of secured debt with a blended rate of 6.0% that was repaid prior to closing or is expected to be repaid through mid-2013. The approximate \$3.1 billion in cash required to date to close the loans, the acquisitions and repay secured debt was funded through the company's 2012 capital raising activity and availability under the company's new unsecured credit facility.

Sunrise Investments Reconciliation:

(\$'s in millions)	3Q2012	4Q2012	1/9/2013	Total As of Today	Remaining 2013E	Total
	Debt Assumed ⁽¹⁾			\$397.8	\$397.8	\$ 96.2
Cash Required	\$243.5	\$819.5	\$1,987.4	\$3,050.4	\$ 729.8	\$3,780.2
Acquisition Amount	\$243.5	\$819.5	\$2,385.2	\$3,448.2	\$ 826.0	\$4,274.2

(1) Debt assumed is net of payoffs that occurred as of closing or are expected to occur shortly after respective closing dates.

Sunrise Senior Living Management Company Sale:

Immediately prior to the acquisition of the Sunrise property portfolio, an entity led by affiliates of Kohlberg Kravis Roberts & Co. L.P. and affiliates of Beecken Petty O' Keefe & Company acquired the Sunrise management company for approximately \$130 million, with Health Care REIT investing approximately \$26 million for a 20% ownership interest. The Sunrise management company will employ the employees of Sunrise Senior Living and operate under the "Sunrise" name and brand.

Advisors

BofA Merrill Lynch acted as exclusive financial advisor to Health Care REIT on the transaction. Arnold & Porter, LLP, Goodmans, LLP, Nabarro, LLP, Shumaker, Loop & Kendrick, LLP, and Sidley Austin LLP, acted as Health Care REIT's legal advisors.

About Health Care REIT, Inc.

Health Care REIT, Inc., an S&P 500 company with headquarters in Toledo, Ohio, is a real estate investment trust that invests across the full spectrum of seniors housing and health care real estate. The company also provides an extensive array of property management and development services. As of September 30, 2012, the company's broadly diversified portfolio consisted of 1,030 properties in 46 states, the United Kingdom, and Canada.

Forward-Looking Statements

This document may contain "forward-looking" statements as defined in the Private Securities Litigation Reform Act of 1995. When the company uses words such as "may," "will," "intend," "should," "believe," "expect," "anticipate," "project," "estimate" or similar expressions, it is making forward-looking statements. Forward-looking statements are not guarantees of future performance and involve risks and uncertainties. The company's expected results may not be achieved, and actual results may differ materially from expectations. This may be a result of various factors, including, but not limited to, unanticipated difficulties and/or expenditures relating to the Sunrise acquisition; the company's ability to enter into new joint venture agreements and management contracts; the company's ability to acquire interests in properties from joint venture partners; unanticipated difficulties and/or expenditures relating to the joint venture partner buy-outs; the cooperation of joint venture partners; the status of capital markets, including availability and cost of capital; changes in financing terms; competition within the health care and senior housing industries; negative developments in the operating results or financial condition of the operator/tenant, including, but not limited to, its ability to pay rent; operator/tenant bankruptcies and insolvencies; governmental regulations affecting Medicare and Medicaid reimbursement rates and operational requirements; liability or contract claims by or against the operator/tenant; unanticipated difficulties and/or expenditures relating to the integration of multi-property acquisitions; issues facing the health care industry, including compliance with, and changes to, regulations and payment policies, responding to government investigations and punitive settlements and the operator/tenant's difficulties in cost-effectively obtaining and maintaining adequate liability and other insurance; and changes in rules or practices governing the company's financial reporting. Additional factors are discussed in the company's Annual Report on Form 10-K and in its other reports filed from time to time with the Securities and Exchange Commission. The company assumes no obligation to update or revise any forward-looking statements or to update the reasons why actual results could differ from those projected in any forward-looking statements.